BUILDING THE AMERICAN NATION

NICHOLAS [illegible] AY BUTLER

RANDOLPH-MACON COLLEGE

WALTER HINES PAGE
LIBRARY

Discarded

FROM THE FUND GIVEN BY

A. S. DARDEN, Esq.

OF SUFFOLK, VA.

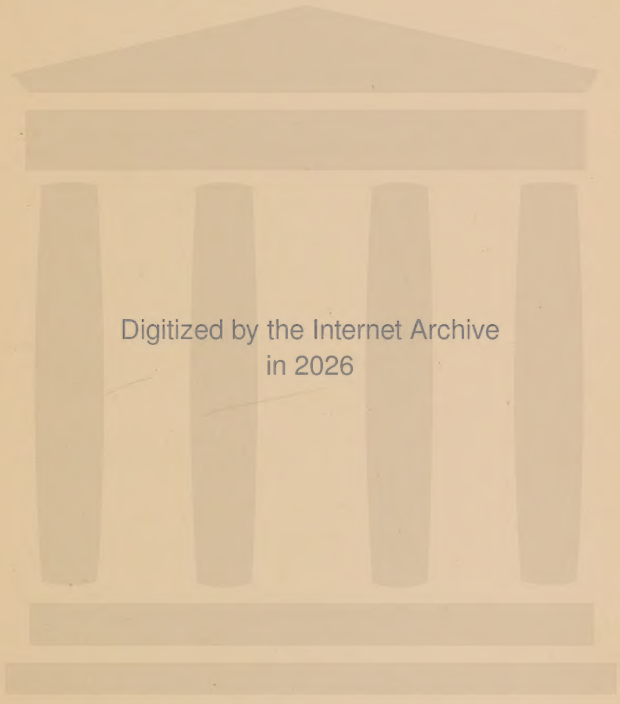
FOR THE PURCHASE OF BOOKS FOR THE
ENGLISH DEPARTMENT

IN MEMORY OF HIS ONLY SON

ARCHIBALD ALLEN DARDEN

WHO DIED A STUDENT OF THIS COLLEGE
MARCH 22, 1888
IN THE TWENTIETH YEAR OF HIS AGE

the Darden English Library


Digitized by the Internet Archive
in 2026

https://archive.org/details/buildingamerican0000unse_h1a6

BY THE SAME AUTHOR

The Effect of the War of 1812 Upon the Consolidation of the Union—Johns Hopkins University Press, 1887—30 pp.

True and False Democracy—Charles Scribner's Sons, 1915 (First Edition, The Macmillan Co., 1907)—xii + 111 pp.

The American As He Is—Charles Scribner's Sons, 1915 (First Edition, The Macmillan Co., 1908)—x + 104 pp.

Philosophy: An Essay in Definition—Columbia University Press, 1911—vii + 51 pp.

Why Should We Change Our Form of Government? Studies in Practical Politics—Charles Scribner's Sons, 1912—xv + 159 pp.

The International Mind: An Argument for the Settlement of International Disputes—Charles Scribner's Sons, 1913—x + 121 pp.

The Meaning of Education: Contributions to a Philosophy of Education—Charles Scribner's Sons, 1915 (First Edition, The Macmillan Co., 1898)—xiii + 385 pp.

A World in Ferment: Interpretations of the War for a New World—Charles Scribner's Sons, 1918—viii + 254 pp.

Is America Worth Saving? Studies in National Problems and Party Policies—Charles Scribner's Sons, 1920—xiii + 398 pp.

Scholarship and Service: The Policies and Ideals of a National University in a Modern Democracy—Charles Scribner's Sons, 1921—xii + 399 pp.

Building the American Nation: An Essay of Interpretation—Charles Scribner's Sons, 1923—xiv + 375 pp.

BUILDING
THE AMERICAN NATION

BUILDING THE AMERICAN NATION

AN ESSAY OF INTERPRETATION

BY

NICHOLAS MURRAY BUTLER

PRESIDENT OF COLUMBIA UNIVERSITY

MEMBER OF THE AMERICAN ACADEMY OF ARTS AND LETTERS

Discarded

NEW YORK

CHARLES SCRIBNER'S SONS

1923

973.08
B986

COPYRIGHT, 1923, BY
CHARLES SCRIBNER'S SONS

Printed in the United States of America

Published September, 1923

TO THE MEMORY OF THOSE FOREBEARS OF MINE
WHO IN THEIR TIME LABOURED TO KEEP ALIGHT
THE LAMP OF LEARNING AND TO ADVANCE THE
CAUSE OF CIVIL LIBERTY, FIRST IN SCOTLAND,
ENGLAND, WALES, AND IRELAND, AND THEN
IN THE AMERICA OF THEIR HOPE AND LOVE

658

LECTURES DELIVERED ON THE SIR GEORGE WATSON FOUNDATION FOR AMERICAN HISTORY, LITERATURE, AND INSTITUTIONS

1921 Viscount Bryce
1922 Arthur Twining Hadley
1923 Nicholas Murray Butler

CONTENTS

		PAGE
	INTRODUCTION	xiii
I	FORERUNNERS OF THE NATION	1
	SAMUEL ADAMS AND BENJAMIN FRANKLIN	
II	FATHER OF HIS COUNTRY	43
	GEORGE WASHINGTON	
III	MASTER-BUILDERS OF THE NATION	93
	ALEXANDER HAMILTON AND JAMES MADISON	
IV	SPOKESMAN OF THE DEMOCRATIC SPIRIT . .	133
	THOMAS JEFFERSON	
V	WELDERS OF THE NATION IN LAW AND IN PUBLIC OPINION	169
	JOHN MARSHALL, DANIEL WEBSTER, AND ANDREW JACKSON	
VI	DEFENDER AND PRESERVER OF THE NATION'S UNITY AND POWER	223
	ABRAHAM LINCOLN	
VII	FIFTY YEARS OF GROWTH AND CHANGE . .	271
	APPENDIX	
	USEFUL REFERENCES	313
	THE STATES OF THE UNION	319
	PRESIDENTS OF THE UNITED STATES	320
	THE DECLARATION OF INDEPENDENCE—1776	321

PAGE

THE CONSTITUTION OF THE UNITED STATES . 325

THE FIRST TEN AMENDMENTS TO THE CONSTITUTION 338

SPEECH OF BENJAMIN FRANKLIN IN THE CONSTITUTIONAL CONVENTION AT THE CONCLUSION OF ITS DELIBERATIONS, SEPTEMBER 17, 1787 345

LETTER OF THE PRESIDENT OF THE FEDERAL CONVENTION TO THE PRESIDENT OF CONGRESS 347

GENERAL WASHINGTON'S ADDRESS TO CONGRESS ON RESIGNING HIS COMMISSION . . 349

LINCOLN'S SPEECH AT GETTYSBURG, NOVEMBER 19, 1863 351

MAPS 353

INDEX 355

ILLUSTRATIONS

FACING PAGE

SAMUEL ADAMS, 1722–1803 12
From a painting by John Singleton Copley

BENJAMIN FRANKLIN, 1706–1790 22
From a painting by C. W. Peale

GEORGE WASHINGTON, 1732–1799 46
From a painting by Gilbert Stuart

ALEXANDER HAMILTON, 1757–1804 98
From a painting by John Trumbull

JAMES MADISON, 1751–1836 102
From a painting by Gilbert Stuart

THOMAS JEFFERSON, 1743–1826 138
From a painting by Gilbert Stuart

JOHN MARSHALL, 1755–1835 190
From a painting by John B. Martin

DANIEL WEBSTER, 1782–1852 200
From a daguerreotype

ANDREW JACKSON, 1767–1845 210
From a painting by G. P. A. Healy

ABRAHAM LINCOLN, 1809–1865 242
From a photograph by Hesler, copyrighted by George B. Ayers

MAPS

Territorial growth of the United States on the North American continent from 1783, showing the parallel 36° 30′ and Mason and Dixon line . . . . . *Page* 353

The United States, showing the state boundaries, capitals, and principal cities . . . . . *Page* 353

INTRODUCTION

The first word of one to whom is given the privilege and the honour to serve the Watson Foundation must be of appreciation of the generous and truly wise foresight of the founder.

Mr. Chesterton has recently suggested that we are more likely to love a strange people if we know little about them. In that case it is to be supposed that our imagination and our kindly human instincts would have chance for expression untrammelled by knowledge. Without venturing an opinion upon the soundness of Mr. Chesterton's humour as a guide in practical affairs of life, one may with confidence exclude from its field of probable operation those peoples which, though separated by time and space, speak a common language, cherish a common tradition, and find the roots of their civilisation in a common soil.

Effectively to explain the United States of America to Great Britain is a task which, however welcome, is made difficult by some prepossessions that are British and by some prepossessions that are American.

The prepossessions that are British take their rise

chiefly from a point of view which looks upon the British Empire as a fixed and definite entity, and which finds British advantage only in an increase of the area covered by the British flag, and which sees nothing but British disadvantage in any lessening of that area. This prepossession may be said to exalt the form and to overlook the substance of influence and authority. It represents a static rather than a dynamic point of view. For it history is a series of definite states or fixed relationships rather than a series of constantly changing happenings. A truer and more helpful point of view will look upon history not as a chronicle but as a process.

The prepossessions that are American take their rise chiefly from a point of view which regards the Declaration of Independence as opening an entirely new era in the world's history, as being without any important relation to what happened before or elsewhere, and as not merely inviting, but compelling, a habit of self-esteem and of depreciation of other peoples and other governments as an essential element of the truest patriotism. The surest cure for an ailment of this character is the recognition that it exists. Americans did not need Mrs. Trollope or Charles Dickens to point out this characteristic to them or to make fun of it. Wendell Phillips of Massachusetts, perhaps the most popular platform orator that America has produced, used these words in a famous lecture on the Lost Arts, which is known

to have been delivered more than 2,000 times before American audiences:

> We seem to imagine that whether knowledge will die with us or not, it certainly began with us. We have a pitying estimate, a tender pity, for the narrowness, ignorance, and darkness of the bygone ages. We seem to ourselves not only to monopolise, but to have begun, the era of light. In other words, we are all running over with a fourth-day-of-July spirit of self-content. I am often reminded of the German whom the English poet Coleridge met at Frankfort. He always took off his hat with profound respect when he ventured to speak of himself. It seems to me, the American people might be painted in the chronic attitude of taking off its hat to itself.[1]

If we are so fortunate as to put away those foggy prepossessions that are British and those equally foggy prepossessions that are American, we can approach the subject of the development of the American form of government and society in a spirit of understanding and of helpfulness.

The literature of the subject is literally enormous. Not even a Macaulay or a Von Ranke could hope to master it all. Especially is it true that for a full generation past the contributions to this literature have been almost revolutionary in their importance, as well as in their discovery and interpretation of facts that were little understood or not known at all. For our encouragement we may recall the fact that

[1] Austen, George Lowell, *The Life and Times of Wendell Phillips* (Boston, 1893), p. 366.

in this recent literature is to be found one of the very best histories of the American Revolution written by an Englishman, Mr. George Otto Trevelyan; the most searching and scholarly exposition of British colonial policy written by an American, Mr. George Louis Beer; the most readable and sympathetic biography of Alexander Hamilton written by an Englishman, Mr. Frederick Scott Oliver; the most original and satisfactory treatment of sea power and of British naval policy written by an American admiral, Alfred T. Mahan; and a singularly penetrating and illuminating study of Abraham Lincoln written by an Englishman, Lord Charnwood. Lord Bryce gave not only to the American people but to the world the most complete and well-balanced analysis of the American commonwealth, while Mr. A. Lawrence Lowell has, from the American side of the Atlantic, written a judicious and helpful survey of modern British political organisation.

The interpenetration of British and American scholarship in these fields has not only begun but proceeded far. The present task is to bring to the wider audience of men and women who are not themselves historians that which historical scholars should now well understand. If intelligent readers in Great Britain find satisfaction in following the story of the origin and development of the American nation, it may well be that many Americans of the present generation will find satisfaction in it as well.

Absorption in the intensely interesting happenings of the moment often results in preventing the study of the historical development even of those institutions which touch us most closely. Yet it is only from such historical study that those institutions can be understood or advanced in effectiveness and human service.

The Dean of St. Paul's has recently written these words:

> Good government is the hardest of all problems, and it has never yet been solved. Political history is an almost unrelieved tragedy, because there has never yet been a hopeful experiment that did not break down after a time; there has never been a constitution that did not bear within itself the seeds of its own decay and dissolution.[1]

This is indeed ominous counsel and one cannot but wonder whether any nation will accept it with resignation.

A more cheerful and perhaps a juster view of human progress is that which Landor puts into the mouth of William Penn:

> "If the wiser and better of every country were its governors," he writes, "there would be few wars, few wants, few vices, few miseries; and this would certainly be the case were people well instructed, which they might easily be, in their rights and duties."[2]

[1] Inge, William Ralph, *Outspoken Essays*, second series (London, 1922), p. 139.

[2] Landor, Walter Savage, *Imaginary Conversations*, edited by Charles G. Crump (London, 1901), vol. III, p. 13.

Following Penn, one concludes that the two essentials of political progress are the judicious selection of lawmakers and governors and that amount of general education which will insure that the selection be really judicious. These are perfectly definite ends at which to aim in the conduct and betterment of human society.

In the present interpretation of the origin and development of the American nation there is an intermingling of constitutional history and development with some account of those personalities that are conspicuous by reason of the character and extent of their public service. This unusual mode of treatment, which it is hoped will add interest to the interpretation, has been adopted because both the occasion and the opportunity are themselves unusual. Moreover, one may say with Carlyle that "great men, taken up in any way, are profitable company."

NICHOLAS MURRAY BUTLER

COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK
July 4, 1923

I

FORERUNNERS OF THE NATION

SAMUEL ADAMS AND BENJAMIN FRANKLIN

Delivered in London at the Mansion House, May 24, 1923

FORERUNNERS OF THE NATION

SAMUEL ADAMS AND BENJAMIN FRANKLIN

American civil liberty and American political institutions began wherever English civil liberty and English political institutions began. If that be, as many think and teach, in the well-watered forests of the North German plain, so be it. If it be on the soil of England itself and at the impulse of those traits which we call Anglo-Saxon, well and good. If it be in the conflict between Anglo-Saxon and Norman traditions and influences and their ultimate merging, equally well and good. Wherever English civil liberty began, there American civil liberty and American political institutions had their origin. Magna Carta and the rise of the power of Parliament are part of American history. The Petition of Right and the Bill of Rights applied to and directly affected the inhabitants of the American colonies. By general consent, and by explicit provision in some of the earliest state constitutions, the common law of England was incorporated as part of American law. It must be remembered that the American colonies were English institutions worked for the most part by Englishmen, although under new conditions, and that they cannot possibly be

understood without a knowledge of the British imperial system, of which they were so essential a part.

When, then, does the history of the new American nation begin? It begins at that indefinite and indeterminable point about the middle of the eighteenth century when the restlessness under distant British authority which had often given evidence of its existence became sufficiently wide-spread and sufficiently self-conscious to contemplate and to discuss revolt, and when the differences between the several colonies and their conflicting interests were overborne by a consciousness of a common interest and a common aim. It would be an error to suppose that this restlessness passed into revolt because of any single specific act on the part of the British Government, or because of any systematic oppression to which the colonies were subjected. As a matter of fact, it was the freest part of the British Empire which revolted against the authority of Parliament. We owe to the ripe scholarship and fair-mindedness of a distinguished American scholar, the late Professor Herbert L. Osgood, the best key to a knowledge of what really happened. Professor Osgood makes it quite plain that the supporters of national independence in America advocated it as an end in itself, and that no great fundamental question affecting civil or political liberty was involved. "It would be foolish to assert," he says,

"that the citizen of the United States to-day enjoys a greater degree of liberty than the subject of the crown either in England or Canada. It would be hazardous to maintain that the progress of liberty in England itself was aided to any important degree by the revolt of the colonies." [1]

The truth is that the controversies which arose between the colonies and the British Government were episodes and incidents in the life of the British imperial system, modified, strengthened, and directed by peculiar geographic and economic causes. They cannot otherwise be fully understood. The colonists came to object to a control over them that was exercised from so great a distance, quite apart from the incidents of that control. When once this feeling took root, every incident, whether in itself significant or insignificant, added strength to it. The desire for separation grew by what it fed on. It is a fair subject of discussion, however, whether the colonists did not fare better just because of their distance from Westminster. Had they been nearer and more in evidence they might readily have been treated with greater severity. Moreover, the changes and chances of English politics at home were directly reflected in the sentiments and the interests of the colonies. To be sure George III was never anything but George III; but Walpole and the elder Pitt were quite different persons from Lord

[1] *Political Science Quarterly*, 1887, II, 441.

Bute and Lord North, who followed them. No less a person than Chief Justice Marshall, however, is authority for the statement that "at no period of time was the attachment of the colonists to the mother country more strong, or more general," than in 1763, when the definitive articles of the treaty which restored peace to Great Britain, France, and Spain were signed.[1]

It is only thirteen years from this date to the Declaration of Independence, and clearly events must have moved rapidly to have brought about so great a change within so short a time. Perhaps the very spirit which had carried British arms and British prestige to great heights, both on the continent of North America and on the distant plains of India, had something to do with what followed. Doubtless the logic of the colonial system, with its doctrine of the economic dependence of colonies, had still more. Some place must be found, however, for the stirring in America of those very same ideas which, English in origin, had been carried to France, largely no doubt by Voltaire's *Lettres sur les Anglais*, and which were at that very moment building the path that was to lead to the French Revolution. The commanding influence of John Locke in all this must never be overlooked. If the voices of James Otis and of Patrick Henry were voices of political discontent and revolt, those of Samuel Adams and

[1] Marshall, John, *Life of George Washington* (Philadelphia, 1804), II, 72.

of Thomas Jefferson were also voices of a more or less well-defined political philosophy.

It is important to be clear about the constitutional aspects of the American Revolution, for it was a real revolution. Legally and practically the supremacy of both crown and Parliament over the colonies was complete. Control and supervision of them were exercised in all departments of governmental activity. The colonies were founded when the monarchy was absolute. As Parliament increased its authority and widened the area of its control, colonial affairs naturally passed from crown to Parliament. With the revolution of 1688 the Tudor and Stuart theory of a kingship by divine right disappeared and something very like a contract or compact between crown and Parliament took its place. As Parliament increased its control at home it naturally tended to increase its control in more distant parts of the empire. For a long period the American colonies had been governed in spasms of alternating interest and neglect. It was Lord Clarendon who first comprehended the importance of colonial administration and sought to put it on a sound and orderly basis. As a matter of fact, the colonies had enjoyed exceptional liberty in such vitally important matters as local government, taxation, and organisation and control of the militia. Social life in the colonies, developing freely at a great distance from England, for many reasons became

more democratic and less class conscious than was society in the motherland. Communication was so slow, so difficult, and so costly that the colonists knew but little of what was going on elsewhere and came to take very little interest in it. The provisions for education were of necessity scanty though earnest, and the hard task of breaking the soil for tillage, of clearing the forests, and of building homes absorbed the energies of the colonists to the very considerable exclusion of scholarship and good literature. Indeed the leaders of colonial opinion were men of but few books. The fact that these few books were so good books stood them in excellent stead when they came to the task of constitution-making.

It is paradoxical, but true, that had it not been for the Revolution of 1688 and the vast increase in the power of Parliament, the American Revolution might have been long postponed, or might never have taken place at all. The kings who ruled by divine right vexed the colonies much less than did the Parliament which rested on a very considerable basis of public opinion and public support. The steps that were taken by Parliament in what it conceived to be the interest of the imperial system were increasingly regarded by the colonies first as interferences and then as illegitimate interferences. Wars that had their origin in Europe were fought on American soil, greatly to the discomfort and danger of the

colonists themselves. The desire of each mother country with a system of colonies either to monopolise the trade of those colonies or to make their trade tributary to its own interest, greatly aggravated matters and hastened the day of revolt. Into elaborate details it is not necessary to go. It is sufficient to say that after a hundred and fifty years, more or less, something approaching a consciousness of national unity and national ambition had grown up in the settlements scattered along the Atlantic coast from the Kennebec to the Savannah, and that acts of Parliament, in which Parliament the colonists had no direct representation, gave ground for increasing dissatisfaction even apart from the justice or merit of the particular acts themselves.

We think of the inhabitants of the colonies as wholly English, but this is a mistake. The institutions and the civilisation of the colonies were English, as were their language and their law; but the Scotch-Irish, the Dutch, the German, the French Huguenot, and the Swedish immigration was by no means inconsiderable. It is probable that during the eighteenth century not fewer than 150,000 Scotch-Irish, or Ulster Scots as they are sometimes called, settled on the Atlantic coast. How large a part these colonists and their descendants came to play in the making of American history is well known. They were not gathered together in any

one place, and they dealt with the political and economic problems that arose in that spirit of fierce earnestness which is characteristic of them.

The Dutch were chiefly in and about New York, in whose life they played an important and sometimes a dominant part for many years. The immigrants of German origin were much more numerous, and they were to be found largely in Pennsylvania and adjoining parts of the province of New York. They and their descendants came to be known as the Pennsylvania Dutch, and both their characteristics and much of their speech persist to the present day. The French Huguenots came both to New York and to South Carolina, and were neither very numerous nor particularly influential. The same is true of the Swedes, who settled chiefly along the lower part of the Delaware River.

It has been estimated that by 1776, when the population of the colonies amounted to something more than 2,000,000, two-thirds were of English stock, one-sixth of Scotch-Irish stock, one-tenth of German stock, and the remainder of other race origin. Nevertheless, it was from those of English stock that the chief impulse to revolution came. It was by them that the fires of discontent were fed, and it was largely under their leadership that national independence was achieved.

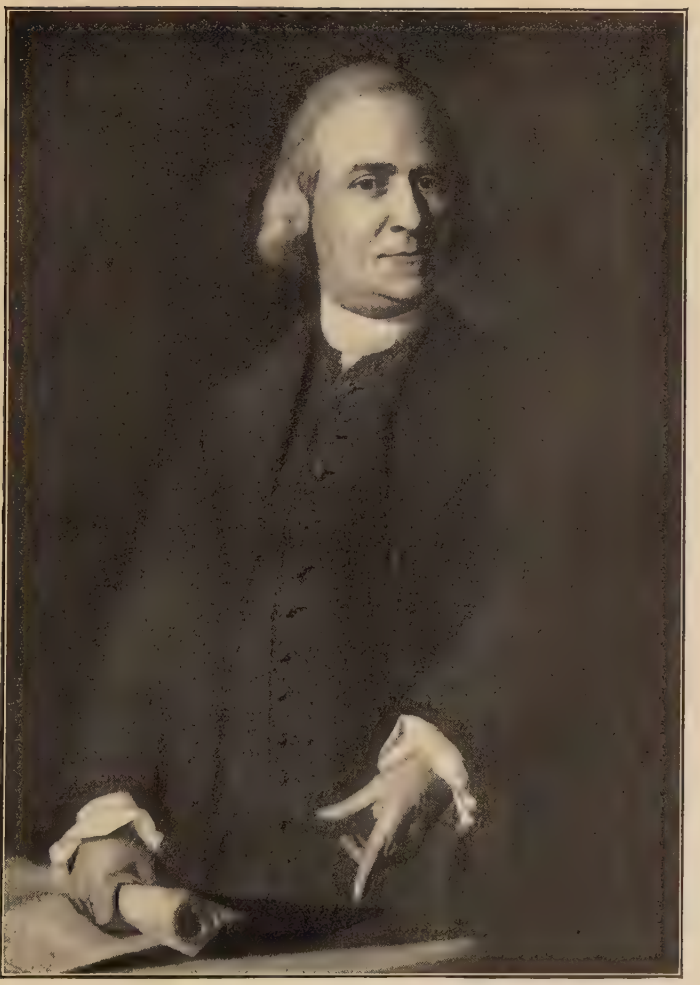
To become effective it was necessary that these stirrings of the spirit in the colonies should find a

voice. There must be some leader or leaders to give expression, perhaps exaggerated and over-emphatic expression, to what was passing in their minds, and to point the way to the goal at which they were dimly beginning to aim. These voices were found in Samuel Adams and Benjamin Franklin, who may, with truth, be described as the forerunners of the new nation. No men could be more unlike than these, and it is, perhaps, symbolic that both were born in Boston, Massachusetts, and that their interests and their activities thereafter sharply diverged.

Carlyle once remarked that when writing of a man he made it a practice to keep before him, or near by, his likeness. One may well take this precaution in the case of Samuel Adams, and look steadily into the face which Copley has put upon the canvas. It is the face of a leader, of a fighter, of a man of quick and urgent speech. To an American it means much to say that Samuel Adams was an Adams. There are in English history notable family names associated for generations with the service of the state and with literature. Such a name is that of the Adams family of Massachusetts. There have been Adamses of all sorts and kinds, including two presidents of the United States, but there has not been an uninteresting Adams. Doubtless the most important, although not the most intellectual of them all, was Samuel Adams, born in 1722, and therefore

ten years older than Washington and sixteen years younger than Franklin. His family, apparently of Devonshire origin, had settled on Massachusetts Bay in or near the town of Quincy. Of the earlier years of the life of Samuel Adams not much is known, but a most significant fact is the title of the thesis which the youth offered to the authorities of Harvard College when he presented himself for the degree of Master of Arts at the age of twenty-one. His topic was: "Whether it be Lawful to resist the Supreme Magistrate, if the Commonwealth cannot otherwise be Preserved." There is no record of what the young man said, or of how his argument was received. One would greatly like to know whether, at that early age, the young revolutionary had caught clear sight of the principles that were to guide his policies in maturer years. It may perhaps be taken for granted that he offered a defence of revolution.

Adams turned away from theology towards law, and from that to commercial life, in the hope of finding gainful occupation. At this he proved a lamentable failure, and either because of lack of business capacity or shiftlessness he became something approaching a ne'er-do-well. Adams compensated for his lack of success in business, however, by his activity in politics, and after the death of his father came into a small property, which eased his struggle for existence. Samuel Adams is known in America as the man of the town meeting, and it



SAMUEL ADAMS

1722–1803

From a painting by John Singleton Copley

was in the town meeting that he laid the basis for his fame and his influence. New England was built upon the town meeting, which was nothing more or less than the modern form of the ancient folkmote. There neighbours met for discussion and action as to the affairs of their town, and there local self-government was exhibited in all its strength and glory. It may well be doubted whether there is any substitute for such local self-government, and whether the extreme centralisation of political and economic power to which we are now becoming accustomed is not more dangerous to civil and political liberty than the edicts of any absolute monarch who ever reigned.

The town meeting was then, and still remains, a typical and highly characteristic institution of New England. It is recorded that an unsympathetic observer described the town meeting at Boston as a hotbed of sedition, and expressed the pious wish that the loyal inhabitants of that town might be rescued from the merciless hand of an ignorant mob, led on and inflamed by self-interested and profligate men. Nevertheless, it was in the town meeting of Massachusetts that the movement for American independence had its effective origin. Samuel Adams begins to be a person of some importance at about the age of thirty. From that time on his name is constantly in the public records, and his speeches, his letters, and his acts are constantly in

the public mind. Adams was persistent, definite, and undeviating. After he clearly conceived the policies of separation and of independence, he would hear nothing of plans for compromise, even though the colonies should be given direct representation in Parliament, as some proposed. There were men of statesmanlike mould who felt and wrote that some plan might be worked out by which the unity of the British Empire would be maintained and its prestige still farther enhanced without separation on the part of the American colonies. To all such proposals Samuel Adams turned a deaf ear. He had in mind the making of a new nation, and nothing could turn him from his course. Moreover, English opinion itself was anything but unanimous. The elder Pitt and Camden lent open support to the proposal that the American colonies should be directly represented in Parliament. The controversy was by no means entirely one of passion and of rhetorical outbursts. There were close and well-matured legal arguments at the disposal of either side.

Perhaps the position taken by official England may be found best stated in the arguments of Mansfield, lord chief justice of England. He laid it down as sound constitutional doctrine that the colonies, as originally founded, were corporations, created by the crown, the crown alone having that power under the constitution before 1688; that the franchises of property and government granted to these corpora-

tions in their patents were not contracts between the grantees and the crown; that most certainly the governmental powers conferred were not contracts and, therefore, the king, as the ultimate sovereign under the British constitution, might withdraw these grants of governmental power when, in his judgment, such withdrawal would redound to the welfare of the empire; that most certainly the crown might withdraw these grants when, in his judgment, they had been abused; that in the interpretation of the patents and charters everything is to be considered as reserved to the crown which is not expressly or by direct implication granted, since the crown and not the patentees was the source and basis of sovereignty; that after the change in the British constitution effected by the Revolution of 1688, the ultimate sovereignty was transferred from the crown to Parliament; that thereafter the Parliament stood in the place originally held by the king in his relation to the colonies, and that the Parliament as supreme and ultimate sovereign in the British state might, at its own discretion, deal with the colonies and their governmental establishment in whatever way it might deem the good of the state demanded.

From these legal propositions laid down by Lord Mansfield it followed, first, that the government at Westminster was the government over the colonies in respect to all international relationships; second, that the government at Westminster was the govern-

ment over the colonies in respect to all intercolonial relationships; third, that the local governments of the colonies could legally act in their own several spheres only when, in so far as, and so long as, they were expressly empowered so to do by the government at Westminster; fourth, that the local governments of the colonies were nothing more than agencies of Parliament, whose functions and powers might be increased, diminished, or withdrawn by Parliament, the ultimate sovereign, at its discretion, and that in the domain of civil rights no individual or individuals could claim anything as a right which Parliament did not permit, since it, as the ultimate sovereign in the British constitution after 1688, was the final interpreter of all rights, civil as well as political. Under these doctrines the legal status of the colonies was really less favourable than before the Revolution of 1688, since under the absolute monarchy there was an implied obligation of the crown to defend the civil rights of the individual. Under the sovereignty of Parliament this implied obligation disappeared, since the Parliament represents the people as their sovereign organisation, and is bound by nothing save its own sense of right, of justice, and of expediency. If Parliament acts contrary to these, there is no farther appeal, since a right of revolution is a right of the people, and the people cannot revolt against themselves.

One who to-day examines the positions taken by

Mansfield must admit that his logic is impeccable if his premises be granted. He had apparently made it impossible for the colonies to become self-governing, and even denied them the right of revolution.

Over against these formidable legal propositions of Lord Mansfield are to be set the closely reasoned arguments of Samuel Adams. He denied the premise from which Lord Mansfield's arguments proceed, and in opposition thereto made a clear statement of the point of view of the colonists. He held that the patents or grants from the crown under which the colonies were originally established were contracts between the crown and the patentees, the undertaking to colonise being the consideration for the grant; that these patents or charters were contracts that could not be withdrawn at the pleasure of the crown, and could not be altered or amended save with the consent of both parties to the contract; that the functions and powers of government, not expressly regulated by the patent or charter and not expressly denied therein to the patentees, were left to be exercised at the discretion of the patentees; that the guaranty and protection of the civil rights of the individual colonist was the bounden duty of the crown whether so expressed in the patents or not, and that this meant the safeguards of the common law, especially those of the system of trial by jury and the payment of taxes only with the consent of the colonists; that the

Revolution of 1688 was wholly an internal affair for England and did not in any way change the relations between the English Government and the colonial governments; that by this revolution Parliament succeeded to the king's obligations as well as to his sovereignty and could, therefore, do nothing by law with respect to the colonies which the king had not formerly done by his power of making ordinances. The argument of Adams went even farther than this, and his final conclusion was that the Parliament of England is an institution wholly foreign to the colonies, and that its directions could only reach them through the crown and under the limitations of the crown. In other words, Adams would eject the British Parliament from its position between the crown and the colonies, and would insist upon dealing with the crown direct and in accordance with the hard-won liberties of Englishmen. Adams added the argument that the British Parliament could never be regarded as the sovereign organisation of the people of the British Empire until the people of the whole empire were represented in it proportionately to the population of the different parts of the empire. These arguments of Adams, made more than a century and a half ago, have a familiar sound to modern ears.

From the legal principles held by Adams it followed as matters of practical politics that the crown and not the Parliament was the central

governing power of the colonies; that the crown exercised immediately and directly the functions of international and intercolonial government, subject only to the moral restraint that its measures should have in view the welfare of the colonies, and to the legal restraint that in any act of the crown requiring the payment of taxes by the colonists these taxes should be granted by the respective colonial legislatures before they were levied and collected by the agents of the crown; that in respect of the internal government of the colonies the consent of the representatives of the people was necessary to all legislation and taxation; that the executive agents in the administration of law and justice were responsible to the colonial legislatures; and that this responsibility was to be enforced by the legislatures through fixing their salaries and the length of their term of service.

It will quickly be seen that behind the sharply opposed constitutional doctrines of Mansfield and of Adams there lay two quite different methods of approach to a disputed question in the field of practical politics. The position of Mansfield was that of a learned lawyer giving expression to the precise letter of the political system to which he was accustomed. The notion of popular sovereignty was quite foreign to his thinking, since, even after Parliament had displaced the sovereignty of the crown, Parliament itself was not based upon any

real representation of the nation as a whole, but rather upon tenures and franchises that had been created by the crown itself. Mansfield was correct in his assertion that the sovereign power of Parliament did not rest upon the natural sovereignty of the people of the British Empire, but upon the conferred sovereignty of the political franchise holders. He could not, therefore, have consistently admitted that the sovereign power of Parliament sprang from the will of the people. Adams, on the other hand, saw clearly that the social and political conditions upon which the old order had rested were changing, and indeed had changed, and he made his appeal not to the letter of the law as it had been but to the spirit of history as it was coming to be.

During all these years of struggle and contention between the British Government and the American colonies, opinion at home was steadily moving away from the old conceptions and old prepossessions. Between 1688 and 1776 an increasing body of public opinion in England was ready to accept the doctrine of popular sovereignty and of representation in Parliament on the basis of population, and was struggling in various ways to realise these conceptions in the world of fact. There were but two methods by which these far-reaching changes could be brought about: the one was reform, the other was revolution. They were eventually brought about in England itself by reform; in the colonies they took place by revolution. Whether that revolution was

to be peaceable or violent depended upon how far the colonists were ready and willing to follow the doctrines of Adams in case their claims were denied. In the colonies violent revolution took place, actually in 1775 and technically in 1776; in England the slower-moving processes of reform put into effect what were, to all intents and purposes, the conclusions of Adams in 1832, in 1867–1868, and in 1884–1885.

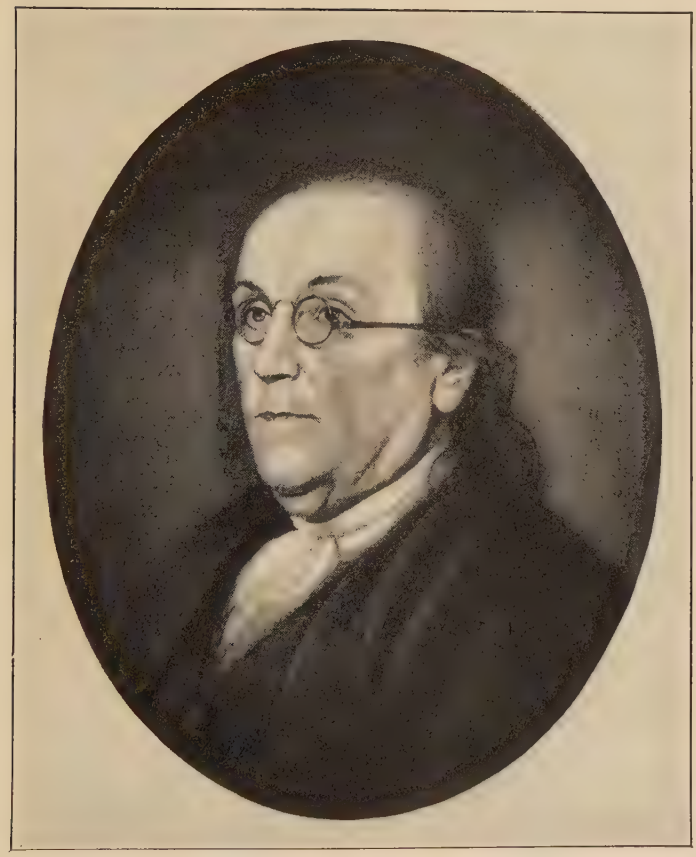
Meanwhile, the extraordinary person who bore the name of Benjamin Franklin was pursuing his many-sided career and gaining recognition both as the first American and as a rich and many-sided personality, familiar to the leaders of the intellectual, the social, and the political life not only of Great Britain but of the continent. Franklin was the first man born in America to establish international relations and to gain an international reputation. If Samuel Adams was the forerunner of the new nation in respect of his constitutional argument and his revolutionary agitation, so Benjamin Franklin was the forerunner of the new nation by reason of his power to represent with gentleness, with persuasiveness, and with large human sympathy the new feeling of national unity and national aspiration that was growing up in America. Like Jefferson, he illustrated to the full the power of the pen.

Franklin, like Adams, was born in Boston, but from early youth he is associated with Philadelphia,

which was in many ways the most important city in the colonies. His family came to New England from Northamptonshire towards the end of the seventeenth century. That it was a useful family is proved by the fact that for generations the eldest son had served the village of Ecton as its blacksmith. One of Franklin's biographers dryly remarks that fate having other uses for Benjamin Franklin carefully guarded him from Vulcan's calling by making him the youngest son of the youngest son for five generations. Franklin's own autobiography, which, though unfinished, is one of the most charming books of its type, is chief authority for an understanding of the personality and temperament of the man. Thackeray in a notable passage in *The Virginians*, describing the meeting of General Braddock, commander-in-chief of the British forces in America, and Benjamin Franklin, then postmaster at Philadelphia, causes His Excellency graciously and tactfully to exclaim to Franklin: "'Twas extraordinary how a person of such humble origin should have acquired such a variety of learning and such a politeness of breeding too, Mr. Franklin!" [1]

That which General Braddock found extraordinary has continued to surprise every reader of Franklin's writings, as well as every one who has followed his amazing activities both in Europe and in America. Without profound learning he was yet

[1] Thackeray, W. M., *Works* (New York, 1899), vol. XVIII, p. 68.



BENJAMIN FRANKLIN

1706–1790

From a painting by C. W. Peale

a philosopher, made so by nature and by temperament. With only the aid of such instruction as he gained for himself from books and from contact with men, he was accepted both as a scientist of repute and as a man of letters. Without any similar responsibility or experience in large affairs, he nevertheless moved easily among the statesmen and rulers of Europe as a counsellor and peer. His restless intellectual activity, his imagination, and his wide range of sympathies led him to call into existence institutions of learning, academies for scientific research, and organisations of every type to aid the accomplishment of men's higher and finer ideals. "This self-educated boy and busy, practical man gave to American literature the most popular autobiography ever written, a series of political and social satires that can bear comparison with those of the greatest satirists, a private correspondence as readable as Walpole's or Chesterfield's; and the collection of Poor Richard's epigrams has been oftener printed and translated than any other production of an American pen." [1] With precision and elegance Condorcet drew a picture of Benjamin Franklin in these words:

L'humanité et la franchise étaient la base de sa morale; une gaieté habituelle, une douce facilité dans la vie commune, une inflexibilité tranquille dans les affaires importantes formaient son caractère.[2]

[1] Ford, Paul Leicester, *The Many-Sided Franklin* (New York, 1899), pp. 261–262.

[2] *Œuvres de Condorcet* (Paris, 1847), III, 415–416.

As Adams came more and more completely to represent Massachusetts, Franklin more and more completely outgrew Massachusetts. He cared less than did Adams for constitutional argument and for rhetorical appeal. He cared more than did Adams for the larger relationships of the colonies both to each other and to Europe. He moved less in the realm of statutes and of resolutions, and more on the plane of counsel and of mutual understanding. He could consider compromise when Adams would hear nothing of it. His vision was wide enough to see the possible dangers and difficulties in a given course of action, though it was at once popular and plausible. If the fire and zeal and power of leadership of Samuel Adams were needed to stir the people to revolution, the skill, the wisdom, and the philosophy of Franklin were equally needed to moderate the more violent manifestations of that revolution, and to give it reasonable and temperate explanation to those who were not in sympathy with it.

Franklin's place in the history of American public life is still more commanding and original than is his place in the history of American literature. He, and he alone, saw service first as agent or representative abroad of his colony or province, then as agent or representative abroad of the colonies as a whole, and finally as accredited diplomatic representative of the newly made nation. His name, and his alone,

is signed to each one of the four epoch-marking documents in the early history of the making of the American nation: the Declaration of Independence in 1776; the Treaty of Alliance with France in 1778; the Treaty of Peace with Great Britain in 1783; and the constitution of the United States in 1787. In many-sided accomplishment Franklin rivalled Sir Christopher Wren.

Both Samuel Adams and Benjamin Franklin were new types in the English-speaking world. Though of unmixed English stock, they were no longer Englishmen. They were glad inheritors of English tradition and eager defenders of those institutions and ideals for which progressive Englishmen had fought for centuries, but they were Americans, not Englishmen. They represented the fruit of that tree which had grown from English seed planted in a new soil. Nurture had added much to nature and greatly modified it. Remoteness from the centres of intellectual and political life and activity, as well as absorption in their own immediate and sternly practical affairs, had thrown the colonists upon their own resources from the beginning. Under such circumstances it was only to be expected that a new type would be evolved. That type was the American, and Samuel Adams and Benjamin Franklin were two markedly different but none the less distinctive examples of it. They cannot be compared but only contrasted with

the politically minded Englishmen of the century in which they lived. After all likenesses have been enumerated, the points of difference to their English contemporaries are more numerous still. It was this new and developing American type that was in revolution against any government from a distance, whether benignant, arbitrary, or tyrannical. This revolution may have been for the time being anti-English, but it can hardly be described as un-English.

Little by little the appeals of Adams and the counsels of Franklin were understood and responded to by the great body of colonists. There were devoted and high-minded loyalists who could not bear the thought of breaking the ties that bound the colonies to England, but the logic of events was too strong for them and they were overborne. The so-called Boston Tea Party of December 16, 1773, and the Boston Port Act of 1774 marked the beginning of the end of the period of discussion and of protest. During the course of the year 1773, in order to relieve the English East India Company of embarrassment, that company was authorised to export to America a portion of the tea stored in its English warehouses. This exportation was to be free from all duties and taxes at home, but was made subject to the threepenny tax payable in America. The trade of the colonies in tea was both large and profitable, and any change in

its conditions or natural channels was quickly noticed. The East India Company made the mistake of choosing as its agents in the colonies men who were on the unpopular side of current discussions, and sharp opposition to the whole transaction was at once aroused. The amount at stake was in no sense large, but the colonists had reached the point where they were thinking in terms of principle and not in terms of pounds, shillings, and pence. When these shipments of tea reached the colonies they received a varying welcome. That made to Charleston, South Carolina, was landed and put in storage; those made to Philadelphia and to New York were politely reshipped to England; that made to Boston, however, was the cause of a famous demonstration. After some little discussion and controversy, a group of men disguised as Indians boarded the vessels containing the tea and threw the consignment into Boston harbour. John Adams at once recorded his opinion that this act was so intrepid and inflexible that it must have important consequences. Harrison Gray, who was treasurer of the province and whose political views were quite different from those of John Adams, expressed the opinion that God would punish in the lake which burns with fire and brimstone such members of the Boston Tea Party as might remain unrepentant. Franklin characteristically described this event as an act of violent injustice that demanded speedy reparation. Chat-

ham, whose general views could not be regarded as other than friendly to the colonists, described the act as criminal. George III and Lord North took the perfectly sound position that if the colonies were to remain dependent upon the crown and Parliament of Great Britain, this act must be punished and the laws of the realm enforced. The so-called Boston Port Act followed and became effective on June 1, 1774. The effect of this act, if enforced, was practically to boycott the port of Boston, although the Irish captain who gave his name to that policy was not to become famous for more than a century.

When matters had gone so far as this it was easy to imagine the sequel. Virginia expressed its sympathy with Massachusetts and offered its support; other colonies did the same, and the movement for unity among them to offer effective resistance to Great Britain grew apace. Up to this time the thirteen colonies had been really thirteen, each standing in direct relationship to the government at Westminster. From now on, however, the thirteen colonies were to be gradually welded into one people, and that people was shortly to create a government to give voice and expression to its aspirations and its independence. By general consent decision was reached to invite a meeting of delegates from each of the thirteen colonies, to assemble at Philadelphia on September 5, 1774. This assembly became the

First Continental Congress, and with it the birth pangs of the new nation began. Its membership was certainly distinguished and representative. From every colony except Georgia, which was unrepresented, came men of genuine light and leading. This First Continental Congress was, to the outward eye, the first step in the formation of the government of the United States of America. Yet this might well have been unsuspected by even a well-informed observer. Not only did the Congress take no action looking towards independence, but it actually renewed allegiance to the British crown, and in an address to the king expressly stated that the American colonists were second to none in their devotion to His Majesty's person and government.

Samuel Adams, however, had not relinquished his aim. He frankly stated that that aim was the entire separation and independence of the colonies, and that the more severe the acts of the British Government the sooner would this aim be achieved. As one looks back upon all these significant happenings it seems clear that events having taken place as they did, and conditions being what they were, it only needed the assembling of some body, such as this Continental Congress, representative of all the colonies, to hasten the conflict with England, and that out of that conflict separation and independence would certainly come. Patrick Henry

was saying in Virginia pretty much what Samuel Adams was saying in Massachusetts, although in less closely reasoned form. The minds of men were gradually being accustomed to the thought of conflict and of separation, and various plans for union of the colonies were offered and debated. What had first been a vague feeling in the public mind assumed more and more the shape of a definite plan of concerted action. Chatham and Lord North offered suggestions which they rightly regarded as conciliatory; but the temper of the people in America was steadily rising, and the time had come when measures of conciliation received scant attention. It was certain that out of the sharp conflict of argument there would, sooner or later, come a spark to light the fires of armed conflict. That the colonists had arms and ammunition for the purpose of resisting British authority in some of its aspects was quite certain; that the British forces, under General Gage, should have attempted to seize these stores of arms and ammunition was quite natural; that when this attempt was made there would be fighting was obvious. In one way or another it was just this that happened, and, finally, at Concord Bridge, on April 19, 1775,

> "... the embattled farmers stood,
> And fired the shot heard round the world."

When news of this conflict reached England, George III wrote to Lord Dartmouth that America must

be a colony of England or treated as an enemy. The issue was joined, and almost immediately George Washington, then forty-three years of age, was summoned from Virginia by the Continental Congress to take command of the Continental army. This he did at Cambridge, Massachusetts, on July 2. War had begun. The birth of the new nation, for which Samuel Adams had argued and Benjamin Franklin spoken, was now to depend upon the arbitrament of war.

A nation in the fullest sense of the term is a population of sufficient ethnic unity dwelling in a territory which affords suitable geographic unity and maintaining or living under a governmental unity. Perhaps few, if any, nations comply entirely with these conditions, but they serve to indicate a standard of measurement and judgment which is often of great practical use. If a nation is to come into being under conditions that are natural and not artificial, there must be present as its basis such geographic conditions as make for unity, and such ethnic elements as will serve to bind the various communities together through common sentiment and tradition. What is the answer to the question, Did the American colonies as they existed in 1775 have either geographic or ethnic unity? If we exclude Canada, as we must, the thirteen colonies are found to stretch along the Atlantic coast between parallels of north latitude 31° and 44°, and extend-

ing back to the summit of the Alleghany Mountains. This territory was not separated into parts by any natural boundaries such as mountain ranges, large bodies of water, or sharp climatic differences. Plainly, then, the territory occupied by the colonies was a geographic unity. In respect to ethnic unity, however, conditions were somewhat different. If the population of the colonies in 1775 be taken at 2,500,000, then some 2,000,000 were of the white, or Caucasian races, and some 500,000 were African negroes. The white inhabitants were practically all of European origin. They had, therefore, a substantial substratum of ethnic unity in their traditions and their institutional life. They spoke a common language, English, and in religious faith they were overwhelmingly protestant. Ethnic unity, therefore, existed so far as the white population was concerned. The 500,000 African negroes constituted an exceptional element, whose problems have continued and multiplied and have profoundly affected American history. The gap between the white and coloured races was then so wide that few men felt any contradiction in holding negro slaves and at the same time voting for the proposal that all men are created free and equal. In substance, therefore, the essential elements of geographic unity and of ethnic unity did exist to serve as the foundation of a new nation.

The various steps towards attainment of govern-

mental unity stand out clearly in the history of the period.

Before 1775 governmental unity of the colonies was supplied by the British crown. This unity derived from the monarch, and if the king had been monarch of the colonies alone, with his seat of government in America, and had not represented another interest in conflict with that of the colonies, the relationship would have been entirely natural, as history abundantly shows. It was, however, unnatural for the monarch who gave to the colonies their governmental unity to be also the monarch of another population whose interests might be, and indeed often were, in conflict with those of the colonists. It was an instinctive appreciation of these facts which led the colonists from a very early period of their history to seek for a more natural ground of unity among themselves.

The first step in this direction was the so-called New England Confederation of 1643, which Bradford states grew out of a desire to make united defence against renewed and increasingly frequent attacks by the Indians.[1] This body had a short life, owing to religious and political dissensions among its members. It never exercised any real governmental power, and it never had the truly loyal support of its members. It disappeared within less than half a century, and the royal prerogative over the colonies was vigorously reasserted.

[1] *Bradford's History of Plymouth Plantation* (New York, 1908), p. 382.

The second manifestation of the impulse for a more immediate and local governmental unity was called out by the French and Indian invasion of the colony of New York in 1690, and the so-called Schenectady Massacre. Massachusetts then proposed a Congress of the colonies to meet at New York, to agree upon a unified plan of defence. The governmental unity which then came into existence was in the form of an agreement between New York, Massachusetts, Plymouth, and Maryland, for a common military force of 855 men to serve under a commanding officer appointed by the lieutenant-governor of New York, for the defence of those colonies against the Indians.

The third attempt of the same kind was initiated by the crown itself, for the nominal purpose of placing the colonies in a state of defence against the French in 1754, just before the outbreak of the Seven Years' War. The colonies were to draft a plan for governmental unity, which was to be submitted to Parliament for approval. It may be that the purpose behind this suggestion was to bring the colonies to a more immediate sense of their dependence on England. At all events seven of the colonies responded and sent delegates to a convention at Albany. As a result, a plan of colonial union and co-operation, drafted by Benjamin Franklin, was adopted, but it satisfied neither the crown nor the colonies.

The fourth evidence of the existence of a national impulse towards governmental unity was the result of the attempt of Parliament to levy an internal tax on the colonies. This took the form of a Protesting Congress, in which nine colonies were represented, which met at New York in October, 1765. Its only act was to adopt an address to the king and Parliament, and it adjourned shortly without bringing into existence anything resembling a national institution.

Finally, the fifth and last attempt to create governmental unity among the colonies was seen in the meeting of the First Continental Congress, which has already been described. It was this Congress and its successor, the Second Continental Congress, which, although organised only to protest and to petition, created a military system as its executive arm, and thus became a government. It undertook the task of expelling from the colonies by force the sovereign power of the British Parliament.

What is essential to bear in mind is that national union and national feeling were not first created by the Declaration of Independence; they preceded that declaration, made it possible, and secured its realisation.

It is important to distinguish the occasion of declaring American independence from its underlying cause. Unless this distinction be observed, a cor-

rect understanding of the revolution is impossible. It may perhaps be said that the Declaration of Independence itself confuses its occasion with its underlying cause; but if so it is all the more important to make and observe the distinction. The underlying cause of American independence was the fact that the people of the thirteen colonies were in effect a complete and separate nation, capable of managing all their own affairs, both external and internal, far better than any foreign power could do it for them. It will hardly be denied that it is the moral and political right of a people so circumstanced to expel a foreign government by force and to accept full responsibility for the management of their own affairs.

There were European observers who long before the revolution pointed out that American independence was inevitable. As a matter of fact, it made no difference what policy England might follow towards the colonies. By geographic and ethnic considerations they had all the elements for a separate and complete nation, and it could only be a matter of time when they endeavoured to become such in form as well as in fact. It may not be easy to define or even actually to describe nationality, but nationality is a stubborn fact, whose significance men often feel before they can fully comprehend or explain it. The great speeches of Burke on conciliation with America are even now read more eagerly

and more widely in the United States than in England; but in so far as they did not draw the distinction between the underlying cause of American independence and the occasion that was being sought for it, they could not hope to stem the tide of revolution.

From the very beginning the established English customs and traditions of local self-government were to be found in the American colonies. Before 1774 it had become the custom in all the colonies that no law should be passed affecting their internal concerns and that no tax should be laid directly upon them without the consent of the popular branch of the appropriate legislature; that those who were to execute the laws were responsible to the legislature through its power over their salaries, and sometimes over their tenure as well; and that the personal liberty of the individual citizen might not be violated save after a verdict by a jury of his peers. The colonists submitted nominally to the king's orders in council and to the acts of Parliament in regard to their external relations. They made no formal protest against the commercial policy which England imposed upon them from the outset, by forbidding direct trade with any foreign nation and by prohibiting the employment of any but English and American ships. Nevertheless, the regulations to enforce this policy were not obeyed, and wide-spread smuggling grew up without incurring

any moral reproach from the community at large. The king was led to strengthen his admiralty jurisdiction at the colonial ports, to demand from the colonies life salaries for his admiralty judges, and to command procedure in the admiralty courts without jury, as an alternative to the transference of the trial to England. Against these demands every colony protested, and to them every colony offered more or less formal resistance. Usually this resistance was peaceable or passive, but sometimes it took on a threatening aspect.

As all these events progressed the English Government came to the conclusion that its differences with the colonists were rapidly resolving themselves into a question of sovereignty, and that of course the English Government could not yield. Measures which might have succeeded half a century earlier were, after 1765, too late to have effect. Many of the colonists, and among them some important leaders of opinion, were not yet ready to renounce allegiance to the crown as their nominal executive head; but all the colonies had become substantially united in the conviction as to their right to national unity and as to their right to independence in respect of their own internal affairs. It is true that Parliament yielded to this opposition, sometimes to a degree that could not have been anticipated. The moving causes of American independence, however, were silently and steadily operating, and the Boston

Tea Party, the Boston Port Act, and the armed contest at Lexington and Concord simply provided the occasion. The historic and traditional sovereignty of England formally and openly clashed with the revolutionary ambitions of the colonies. The sovereignty of the crown required the suppression and disbandment of the hostile colonial militia, while the independence of the colonies required the maintenance of that militia. Appeal was made, as it has been made from the beginning of time, to the god of battles. The colonists sprang to arms, no longer colonists but as citizens of a new nation. They were now ready to add to their other acts the formal and final declaration by their representatives in the Continental Congress of their national independence. This they did on July 2, 1776, when the Continental Congress adopted the Resolution of Independence proposed by Richard Henry Lee, of Virginia, on June 7, to the effect:

> That these United Colonies are, and, of right, ought to be, Free and Independent States; that they are absolved from all allegiance to the British crown, and that all political connexion between them, and the state of Great Britain, is, and ought to be, totally dissolved.[1]

Two days later, on July 4, followed the unanimous declaration of the thirteen United States of America, which has passed into history as the

[1] *Journals of the Continental Congress*, 1774–1789, edited by Worthington C. Ford (Washington, 1906), vol. V, 425, 507.

Declaration of Independence. The foundations of the new nation were thus formally and publicly laid.

The declaration, which was the work of Thomas Jefferson, with the counsel and co-operation of Benjamin Franklin and John Adams, has taken its place with the most significant documents of modern history. Its style is admirably adapted to its purpose. It expounds with simple directness a political philosophy which is that now known as the right of self-determination, and it is sufficiently rhetorical to make an emotional appeal. The enumeration of grievances against the king, while prominent and formidable, is in truth a quite subordinate part of the document. Its main purpose was to assert that the American people were morally and legally justified in declaring themselves independent of the sovereignty of Great Britain for the reason that they had achieved and now claimed all of the characteristics and rights of a free people. The declaration completely ignored the charge that those who had been colonists were now rebels against constituted authority, since it was built upon the assumption that, having become a distinct nation, the American people were only claiming the rights which attach to independent nationality. Much labour has been expended upon the attempt to prove that the philosophy of government which underlies the Declaration of Independence was drawn from

French sources and was due to French influence. Nothing could be farther from the fact. The philosophy of the Declaration of Independence was the direct outcome of the debates and the conflicts of the seventeenth century in England itself. The advanced political thinkers of that century in England were the sires of the leaders of political opinion in the colonies a hundred years later. It was the influence of earlier English political thinking and debate that was manifest in the Declaration of Independence itself. It would not be difficult to prove that no small part of the philosophy of social organisation and of government which led the way to the French Revolution and accompanied it, is likewise traceable to English sources. Of the Declaration of Independence Jefferson himself wrote towards the close of his life that:

> Neither aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind, and to give to that expression the proper tone and spirit called for by the occasion. All its authority rests then on the harmonising sentiments of the day, whether expressed in conversation, in letters, printed essays, or in the elementary books of public right, as Aristotle, Cicero, Locke, Sidney.[1]

With the Declaration of Independence the counsels of unity and co-operation which Benjamin

[1] Ford, Paul Leicester, *Writings of Thomas Jefferson*, 10 vols. (New York, 1892–1899), vol. X, p. 343.

Franklin had offered so insistently to the colonies were openly accepted; the aims of separation and independence for which Samuel Adams had worked so untiringly were now achieved.

II

FATHER OF HIS COUNTRY

GEORGE WASHINGTON

Delivered at the University of Cambridge, May 25, 1923
and at the University of Edinburgh, June 7, 1923

FATHER OF HIS COUNTRY

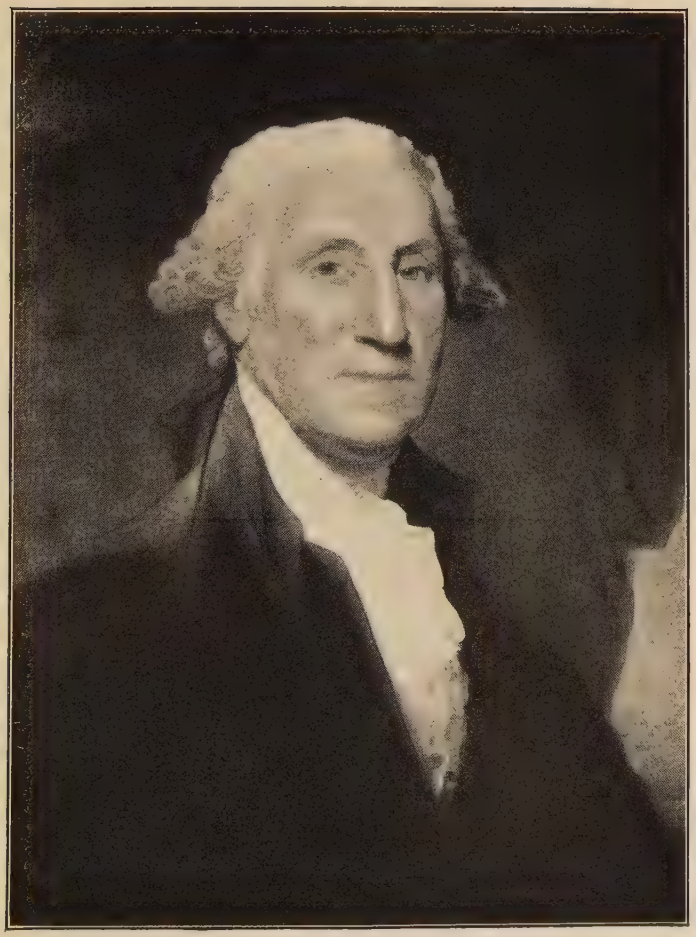
GEORGE WASHINGTON

After Lexington and Concord came Bunker Hill. The die was cast; there was but one alternative, submission or independence. The old relations could never be resumed. As John Adams so insistently pointed out, the war which followed was not a war of revolution, it was a war for independence. The American Revolution had already taken place in the hearts and minds of a great majority of the colonists; it was for independence that they were now to struggle. Side by side with this military struggle, which extended over more than six years with widely varying fortunes, went the movement to build a government that would give both unity and formal expression to the feeling and public policy of the new nation. The interplay between the events of the war and those which were taking place on the political stage was intimate and frequent. Personal ambitions, provincial rivalries, and clashing doctrines of government found violent, sometimes fierce, expression, often to the grave risk of the whole great adventure. A sober reading of the story after the lapse of years gives firm ground for the conviction that George Washington was the

one indispensable figure both to the winning of the war for independence and to the building of a governmental structure on foundations so wise and strong as to convert the American nation from a hope and a dream into a positive and permanent reality. It is in no figurative sense that George Washington was the father of his country.

From the day when, by designation of the Continental Congress, he took command of the Continental army at Cambridge, Massachusetts, George Washington became the foremost figure on the stage of American affairs, and remained so until his eyes were closed in death. For a quarter-century George Washington typified all that was best, all that was most unselfish, all that was most high-minded, all that was truly and nobly patriotic in the spirit and life of the American people.

George Washington has sometimes been called the typical English country gentleman, though resident in an American colony. This is to misunderstand Washington and to misinterpret the conditions under which he grew up, lived his life, and did his work in the world. He was an American country gentleman, living first in a colony and then in a nation which he dearly loved and completely represented. His type was, to be sure, one more familiar in England than elsewhere in the world, but for all that he was none the less an American. He was never, save for brief periods and when on official service,



GEORGE WASHINGTON

1732–1799

From a painting by Gilbert Stuart

resident in a large town or city. He lived upon his estate or plantation which came to him before he was thirty years of age, and there directed his slaves, superintended his crops and their marketing, and did his full duty in the local government of his county and colony as a good citizen should. He was a sound churchman, and in every respect as far removed both in temperament and in speech from such radical revolutionaries as Samuel Adams and Patrick Henry as could possibly be imagined. He had never hesitated to espouse and defend the cause of the colonies when the definite issues with the home government began to be joined. His voluminous correspondence, which revealed so little of the man except his mind, is almost a record of the progress of sober public opinion, first in the colonies and then in the nation. Washington's military genius and his modest and unselfish skill in dealing with men and their meaner passions, his tried and tested sagacity, his poise, and above all his complete self-effacement, excited the wonder of the world as they compel a world's admiration.

Washington's family, as is well known, came from the manor of Sulgrave in Northamptonshire. His people were of substance and standing at home, among them being prosperous merchants, barristers, and scholars of repute. The migration to America took place shortly after the middle of the seventeenth century, and a settlement was made in West-

moreland County, Virginia, which ran along the southern bank of the Potomac between Yorktown, which was to put the seal upon Washington's military fame, and Mount Vernon, which was to be his home and shrine. From the first the Washingtons were recognised as a family of excellence and capacity. When George Washington, son of Augustine, Virginia planter, and of Mary Ball, his wife, was born on February 22, 1732, he opened his eyes upon surroundings that were simple enough but which, according to colonial standards in those days, were reasonably comfortable. The myths that grew up about the childhood and youth of Washington are largely the work of a highly imaginative admirer, the Reverend Mason L. Weems, rector of Mount Vernon Parish, Virginia. This eulogist was so successful in his inventions and so popular in his presentation of them, that it has taken quite one hundred years to discover the true and real Washington beneath the many-coloured mask of myth and fancy which Weems made and fitted to his hero's face. The fact is that George Washington was neither a demigod nor a superman. He was a real person, with the ordinary human passions and limitations, but so well balanced was his character, so well ordered his temperament, and so well disciplined his mind that he made of the ordinary human material a product that is perhaps without an equal in history.

The military struggle went rapidly on. The British troops evacuated Boston; then New York and afterwards Philadelphia were lost to the Continental army. The privation and sufferings at Valley Forge put the staying power of the soldiers to the severest test, and gave opportunity for the revelation of Washington's great powers of endurance, persistence, inspiration, and calm courage. The alliance with France, the work of Benjamin Franklin of Pennsylvania and Silas Deane of Connecticut, followed in 1778, and both French ships, French officers, and French soldiers were soon engaged in the conflict. However the tide of battle might ebb and flow, nothing discouraged Washington. He had the will to win, and win he must. He made fighting soldiers out of most unpromising material, and munitions of war out of what appeared to be nothing. He rose superior to intrigue, and he faced treason without a tremor. He turned and twisted between the Hudson and the Susquehanna both to vex the enemy and to save himself and his army from extermination. His military instinct had firmly grasped the fundamental principle that no cause is lost so long as its army is in being, no matter what territory be occupied by the enemy. Military writers and critics have exhausted themselves in eulogy of his strategy and his military skill. Finally came Yorktown, and there on October 19, 1781, the end was reached. Cornwallis surrendered rather

than sacrifice farther the lives of his gallant soldiers. Clinton, coming from New York, was too late to avert the calamity. The captured British army marched out before their victorious foes, allies but so strangely different. It is recorded that the French soldiers were smartly dressed in full uniform, while the Continental army was in shreds and tatters, often half-naked and barefoot. This contrast is full of symbolic significance. Here on the peninsula between the York River and the River James, with a mere handful of soldiers, as armies are now measured, took place one of the decisive battles in the history of the world. George Washington had suffered and struggled and won.

Meanwhile, what progress had been made in building an effective national government? Independence had been declared by the Continental Congress. This was a body of representatives chosen by the people of all the colonies by indirect election either through conventions or through the popular branch of the colonial legislatures. After hostilities began, this representative body established what was, in effect, an executive power in the person of the commander-in-chief of the military forces, and through that executive power waged war for independence of British control for more than a year before the formal Declaration of Independence was given to the world. The Continental Congress occupied a unique position. No written

constitution enumerated its powers or put any limit upon them. The Congress was, in effect, limited only by its own judgment of what was wise and necessary in meeting each emergency as it arose. It is certainly arguable that this Congress succeeded through act of revolution to the sovereignty of the British Government over the colonies. It is important, in view of the very far-reaching disputes which arose later in the United States, to bear this fact in mind, since it sharply conflicts with the doctrine of those who later held that the thirteen colonies were in revolution not as a unit but as thirteen units, and that when they met through representatives in Congress or in convention, they met as sovereign states engaged in making a treaty or compact, and not as parts of one indivisible political whole. How much power and of what kind the new nation would permanently vest in its central government were questions for the future. The necessities of the moment thrust all such matters into the background, since it was plain that if the revolution was to be successfully carried through, the Continental Congress must exercise whatever powers of government were in its judgment necessary for the defence of the colonies and for their welfare. It was rather a time for action than for discussion of political theories. The Continental Congress, therefore, was obliged to succeed, in fact and probably also in law, to the entire British supremacy

over the internal and external affairs of the colonies, at least until such time as the nation might withdraw from the Congress some or all of the powers which it had assumed. All this was instinctively felt by the members of the Continental Congress, and, often with reluctance, with dissension, and with delay, substantially this course of action was followed. The Continental Congress was plainly the only government which the colonies had for international or external relations. It was plainly the only government the colonies had to deal with their intercolonial affairs. It is also difficult to see how it could avoid assuming the task of establishing those elements of local government directly dependent on Great Britain, after the revolution had expelled the authority upon which these rested. Very large questions of political philosophy and practical politics confronted the Continental Congress, and these questions had to be answered in whatever ways were possible in the midst of a war whose outcome was, to say the least, exceedingly doubtful. The fact that the true position of the Continental Congress was recognised is clearly shown by the following provisions that appeared in the original resolutions respecting independency, which Richard Henry Lee introduced on June 7, 1776:

That it is expedient forthwith to take the most effectual measures for forming foreign Alliances.

That a plan of confederation be prepared and transmitted

to the respective Colonies for their consideration and approbation.[1]

Here was distinct recognition of the authority of Congress in relation to foreign affairs and of its right and power of initiative in preparing a plan of national government.

The international and intercolonial authority of the Continental Congress were not seriously disputed. The opinion that it was also the rightful successor of the crown in all that related to the local government of the colonies was plainly accepted at the outset, since the legislatures directly appealed to the Congress for aid and direction in the reorganisation of local government. Massachusetts went so far as to propose that the Congress should adopt a general plan of local government. The Congress, perhaps prudently, declined to undertake these tasks, since it was wholly occupied with the conduct of the war, but it offered advice to the several colonies to the effect that they should reorganise their local governments on the basis of as wide a suffrage as was practicable. In each colony the practical men of affairs at once went to work to elaborate and establish a system of local government.

The Congress and the American people were now to find how much easier and quicker it is to pull down than to build up. Revolution might be ef-

[1] *Journals of the Continental Congress*, 1774–1789, edited by Worthington C. Ford (Washington, 1906), vol. V, p. 425.

fected in an hour, but to build a nation's government was not so simple a matter. The Declaration of Independence, which was proposed on June 7, 1776, was referred to a committee of five on June 11. This committee reported on June 28, and its work was agreed to and published on July 4. The preparation of a plan of confederation was likewise proposed on June 7, 1776, and was referred to a committee, consisting of one member from each colony, on June 12. That committee made its report on July 12 following, and the ensuing discussion lasted until November 15, 1777. On that date the report, as finally amended, was adopted under the title of Articles of Confederation and Perpetual Union between the thirteen colonies, now designated as states, under the style of the United States of America. Before this date each one of the colonies had reframed its own constitution and had designated itself either as a commonwealth or as a state. These constitutions displaced the British authority in local government for the authority of the people, and changed the forms of government so as to make the tenure of those public officers who had heretofore held from the crown dependent upon election either by the people or by their legislatures. The Continental Congress not only permitted but advised these changes as useful measures to serve during the continuance of the war and until a more complete and undisturbed study of the problem could be made.

As a matter of fact, however, these state or commonwealth governments being first in the field gained a distinct advantage over any general or national convention which might later be assembled, since these commonwealth or state governments would naturally be most reluctant to yield to a central government any power or authority which they themselves had begun effectively to exercise.

It already began to appear that the national government when organised would be but the residuary legatee of the national estate after most of its powers had been specifically bequeathed elsewhere. It was not until February 24, 1781, that the Congress was able to fix a date for announcing to the public the final ratification of the confederation of the United States. On that day the Congress voted that this announcement should be made on Thursday, March 1, and that, in addition to the announcement to the public, this important event should be communicated to the executives of the several states, to the several ministers of the states in Europe, to the minister plenipotentiary of France, and to the commander-in-chief for announcement to the army under his command.

The problem of national unity is a problem both of external form and of internal conviction. The form of unity was being in a measure attained, but the internal conviction rose and fell with passing events, with economic needs and desires, and with

personal ambitions and convictions. It must be borne in mind that it had been the conscious policy of the home government to deal directly with each of the thirteen colonies, and so to hold them apart through a feeling of separateness and distinction in their relations with England. This policy was now bearing its natural fruit.

Then there were the differences and rivalries which Franklin had laboured to compose and which Washington made superhuman efforts to overcome. In a general way these settlements on the Atlantic seaboard were then, as they are now, separable into three rather well-defined groups. New England, with an unusual unity of stock and of tradition, was a section whose surface had been almost entirely carved and moulded by the retreating glacier. There were waterfalls and rapidly flowing rivers, there were deep harbours and bays, and there were valleys which, if rugged to the eye, often yielded abundant produce to the skilled hand. When the time for manufacturing came it seemed that New England was almost made by nature for that purpose. The basic political institutions were the village and the town. The tradition of local self-government, under democratic forms, was strong and jealously guarded. A rigid Calvinism fixed the attitude of the typical New Englander towards the personal and ethical problems of life. Just because of his unity of stock and spirit, and just because of

the rigid Calvinistic foundation upon which so much of his intellectual and religious life had been built, the New Englander has played a prominent, often a dominant, part in the settlement of the West and in shaping the policies and carrying on the government of the nation.

In sharp contrast to New England is what eventually came to be called the South. From Chesapeake Bay to the boundary of Florida runs what is known as the coastal plain. It abounds in rivers, flowing slowly and carrying the red soil from the foot-hills of the Blue Ridge. The ruling elements of its population were drawn originally from the cavaliers of the seventeenth century, and much of the social and political conflict which has marked the later history of the South may be traced to the antagonism between the descendants of these cavaliers and the descendants of the Scotch-Irish settlers, who later came into the Piedmont region from the North. In these Southern States the county and the plantation took the place of the town and the village in New England. The plantation was almost patriarchal in its ownership and management. The South was ordinarily a land of one crop, whether tobacco or other, and the consequent exhaustion of the soil required the tillage of a widely extended area. There was a fine high breeding and gentleness of manner among the ruling class in the South, which gave to that section a charm and a distinc-

tion all its own. No one could then have foreseen the vigorous manufacturing industry that has since grown up in that very section. It appeared at the time of the American Revolution to be destined to stand in sharp economic contrast and competition with New England. Its point of view was different, its occupation was different, its preoccupations were different.

Between these two sections, New England and the South, lay the so-called Middle States. They are middle states in every sense, both geographically, economically, and politically. The noble valleys of the Hudson, the Mohawk, the Delaware, and the Susquehanna not only offered fertile soil to the settler but also means for inland communication and gateways to that beckoning western country which was as yet a wilderness.

A mere recital of these geographic and economic differences will indicate how easy it was for dissension and conflict to arise when the business of nation-building began in earnest. There were those who feared that they or their section might lose something which they had, or that some other section might profit at their expense. The thirteen colonies, now become states or commonwealths, could not remain separate, and yet it was a matter of the utmost difficulty to find common ground upon which they might unite. The future nation had one sheet-anchor, the existence of which was at

that time but little understood or suspected. The people as a whole came into possession of the territory theretofore British beyond the Alleghanies. If, as Daniel Webster said nearly a half-century later, "A national debt is a national blessing" because it serves as "a tie of common interest,"[1] then, as will presently appear, a national possession may be an even greater blessing when difficult parts are to be welded together into a whole.

By the time that the Continental Congress had completed and made public its plan for a confederation, the national enthusiasm of 1776 had greatly cooled. Those colonies in which the British troops were operating suffered directly and had to bear the brunt of the battle. The others were often slow and close-fisted in rendering aid which would seem to be their bounden duty. As a result there sprang up jealousies, antagonisms, and bitterness, which were not helpful to the success of any plan to bind the states or commonwealths together in a nation. Indeed the ebbing of the tide of national feeling is clearly marked in the Articles of Confederation. Promulgated as these were in 1777 and ratified and made effective in 1781, they flatly contradicted the underlying assumptions of the Declaration of Independence of 1776. That declaration was made on the part of "one people," but the Articles of

[1] *Writings and Speeches of Daniel Webster*, 18 vols. (New York, 1903), vol. VI, p. 36.

Confederation expressly provide that "each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled."[1] These articles assume that the states are independent sovereign nations, and that they are entering into a firm league of friendship with each other. There is not only no assertion of the national sovereignty of the people, but there is explicit denial of it. That this was a long step backward was soon to become evident to every one. The political theory of the Articles of Confederation was that sovereignty was vested not in the people but in each one of the thirteen states. It must, therefore, follow that during the colonial period there were thirteen sovereignties exercised by the crown, one in and for each of the colonies, and that these sovereignties were distinct and separate in all respects. This doctrine did not find expression in the original draft of the Articles of Confederation, at least in anything like so extreme a form. The changes that were made during the months of discussion marked the cooling of the national ardour and the growing unwillingness to enter upon the path of truly national development.

It did not take long for the inadequacy and feebleness of this attempt at nation-building to make

[1] *Articles of Confederation*, art. II.

themselves felt. One might search these articles in vain for an effective executive power to succeed to that which the king had exercised under the old system. One might also search them in vain for any provision for the administration of law by agents of the confederation's own creation. All that these articles did was to establish a Congress of Delegates, chosen by the legislatures of the several states, to be withdrawn by them at pleasure, to be instructed by them, and to be paid by them. The articles did vest the Congress with power to appoint officers of the land forces in the service of the United States, excepting regimental officers, provided that nine of the thirteen states should agree to the articles, and that the states permitted the Congress to have an army at all. There was no method of bringing the operation of the laws of Congress to bear upon the individual citizen. These could only be made to operate upon the states, and the difficulties in the way of making such operation effective are only too obvious. There was no real power to regulate foreign commerce, and no action of any importance could be taken save by a vote so large as to command almost unanimous consent. This, of course, was the establishment of minority rule. It was particularism run mad. The impotence of the Continental Congress had been distressing enough, but the impotence of the government established by the Articles of Confederation was still

greater. A few men, and a few men only, rose above these local and provincial conflicts and dissensions to the vision of a united powerful nation. There were perhaps but three such among the leaders in the first rank: Washington, Franklin, and Hamilton. Had not their faith risen superior to every discouragement and had not their persistence worn away every obstacle, there might never have been a real United States of America.

During his conduct of the war, George Washington literally poured in upon the Continental Congress letters that were of themselves, in their quiet pleading and in their dignity of expression, convincing arguments for the necessity of a united nation to give support to a nation's army. When the war was over, Washington bade farewell to his officers, on December 4, 1783, in a touching and oft-described scene at New York, and then journeyed to Annapolis, formally to return to the Congress the commission which the Continental Congress had voted to place in his hands on June 15, 1775. The address which he made to the Congress on December 23 deserves to rank in dignity, sincerity, and pathos with Lincoln's brief but classic oration on the battle-field of Gettysburg.[1] In closing that notable address George Washington offered his commission as commander-in-chief, and took leave of all the employments of public life. He did not

[1] See Appendix, p. 349.

realise, perhaps, how impossible it was that he should cease to be a dominating public character and a controlling public influence. He had been through too much, he had seen and suffered too much, he was too clearly conscious of his country's destiny to permit the new nation to drift upon the rocks of particularism and anarchy without making a determined effort to steer the ship of state into safe and quiet waters. He withdrew to his home at Mount Vernon and entered quietly, yet eagerly, into his appropriate occupations as a landowner and a citizen of influence and importance. Almost at once he began to invite the attention of public men to the significance of the vast territory west of the Alleghanies, and to urge the development of roads and waterways for its penetration and settlement. There can be little doubt that Washington saw the importance of these lands as a helpful influence in binding the several states or commonwealths together in a nation of unity and concord. Even earlier he was writing to Benjamin Harrison and to Hamilton that if the powers of the central government were not increased and made competent to all general purposes, the sufferings, the privations, and the bloodshed of the war would avail nothing. His observations and arguments were those of a strong nationalist asking that the task of nation-building be proceeded with, and that steps falsely taken be retraced.

Meanwhile the Articles of Confederation were, of themselves, moving swiftly to their fall. The foolish notion that a strong central government would of necessity mean a control of civil and political liberty as distasteful as that by the British crown, found voices but no wide-spread support. The real difficulties in the way of nation-building were selfishness, factionalism, and political lassitude. The years between 1781 and 1787 made it perfectly clear that neither the necessities of the American people nor their ambitions could be adequately ministered to by the Articles of Confederation. The machinery of the government set up was clumsy and ineffective. The Congress might issue requisitions to the states for funds and might call upon them to furnish quotas of troops, but there was no way of making the states respond in either case. Congress had not been given the power to levy and collect taxes from individuals, or to draft individuals into the ranks of its army. It could only deal with the states and it was wholly dependent upon such quantity and quality of cooperation as the states were willing to afford. It is little short of marvellous that under such circumstances the war for independence should have ended successfully.

Moreover, the lack of interest in the work of Congress was so great that when it was summoned to meet on November 3, 1783, to ratify the Treaty

of Peace with Great Britain, signed by John Adams, Benjamin Franklin, and John Jay, as commissioners, on September 3 preceding, a quorum could not be had until January 14, 1784. The weakness of Congress in carrying out the provisions of the treaty was as marked as its lack of interest in its ratification. For example, the treaty provided for the protection of British financial and commercial interests in America and for the restitution of all property confiscated from such real British subjects as had not borne arms against the United States. These were quite simple and ordinary provisions of international law and practice, but the government established by the Articles of Confederation could do nothing but recommend these acts to the states. The Congress itself had at its disposal neither an executive nor a judicial arm with which to act directly and responsibly. Great Britain observed the terms of the treaty by at once removing her garrisons from posts on the Atlantic coast; but after two years she had not evacuated the western posts, and was holding them as a protest against the failure of the new government to carry out its obligations under the treaty. It is plain that this impotence might readily provide as grave a ground for international difference, and indeed for war, as some much more vigorous and distasteful act.

One immediate result was to arouse the suspicions of governments of other countries than Great Brit-

ain that engagements made by the United States under the Articles of Confederation might not always be kept. The new nation greatly needed treaties of commerce and intercourse with various European countries, and in July, 1784, the Congress designated Benjamin Franklin, John Adams, and Thomas Jefferson a commission to proceed to Europe for the purpose of negotiating commercial treaties with Spain, Portugal, Austria, Prussia, Russia, and those Italian states that were then autonomous. The notable treaty of 1778 with France was still operative. When these commissioners undertook their task they found that no one of the nations named excepting Prussia was willing to enter into any treaty with the United States.

Foreign trade was, therefore, in a most difficult, not to say perilous, situation. The British Government held fast to its orders in council of 1783, cutting off all trade between the United States and British possessions in the West Indies. Spain, which held ownership and control of the territory about the Gulf of Mexico, declined to allow American produce to pass out of the mouth of the Mississippi River without payment of a heavy tax. So grievous was the burden of the Western settlers and traders that they even talked of setting up an independent government, which should undertake the task of freeing the trade of the Mississippi River from Spanish control.

It was quite impossible that these difficulties and impotences should arise in the field of foreign relations without their having unhappy effects in the field of internal politics. Communism and anarchy, two different forms of one and the same antagonism to liberty, always make their appearance when government is feeble. The conflict between debtor and creditor, which needs but little invitation to give itself public expression, came to the surface even in Massachusetts, which by all tokens was a staid and steady home of law and order. There were those who insisted that the same people who had declared independence should also declare the abolition of indebtedness and of the courts of justice, one of whose functions it was to require men to fulfil their just obligations. In central and western Massachusetts no fewer than 1,500 men took arms in 1786 and rose against the government, primarily because they objected to paying taxes. The treasury of the state was empty, the legislature had among its members sympathisers with the insurrectionists, and the Congress of the Confederation went so far as even to refuse to lend arms for the use of the state government.

Fortunately, a vigorous and determined governor and a sturdy citizenship resisted and put down the rebellion, but the plain lesson was that neither the state government nor the confederate government was really able to govern. A few experiences of this

kind are a costly but often much-needed lesson to the doctrinaire and the dreamer. At that time particularism and anarchy were either on the surface of American life or not very far beneath it. Such conditions as these could not last. The so-called government must either grow increasingly weaker until it dissolved and disappeared, or it must be displaced for something built upon a sounder, stronger, and more enduring basis. To bring this latter result to pass, Washington and his devoted Hamilton laboured unceasingly. It may be going too far to say that had they not been at hand the new nation would have gone to rack and ruin, but it is certainly not going too far to say that their presence and active influence contributed far more powerfully than did any other to the happy and fortunate result that was shortly reached.

Despite its obvious weakness and incapacity, exhibited in so many different ways, the Congress of the Confederation took one step which was of greatest influence and importance in binding the states together in permanent union and in assisting to develop a national consciousness. This was the adoption, on July 13, 1787, of an ordinance for the government of the territory of the United States northwest of the River Ohio, generally known as the Northwest Ordinance. This legislative act dealt with something which the people of all the states held in common, and it marked a very long step

forward in nation-building. In his first speech on Foot's Resolution, made in the United States Senate on January 20, 1830, Daniel Webster spoke of this ordinance in the following language:

> We are accustomed, Sir, to praise the lawgivers of antiquity; we help to perpetuate the fame of Solon and Lycurgus; but I doubt whether one single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked, and lasting character than the Ordinance of 1787.[1]

The vast extent of territory lying northwest of the Ohio River was, for the most part, claimed by Virginia under its colonial patent. A relatively small strip along the southerly shore of Lake Erie was similarly claimed by Connecticut. Massachusetts had also to be reckoned with. It was plainly quite impossible for any one state to command the resources with which to explore and to develop so extensive and so distant a domain, and, therefore, it was quite natural that the task should have fallen into the hands of whatever general government existed. While the war of independence was yet in progress, the Continental Congress had decreed that such Western lands as might be given over by these states to the control of Congress should be held for the time being as property belonging to the states as a whole, with a view to its ultimate settlement and development as new states.

[1] *The Writings and Speeches of Daniel Webster* (Boston and New York, 1903), vol. V, p. 263.

This northwest territory did not, however, pass under the control of the general government without difficulty and delay. Finally, on March 1, 1784, Virginia executed an effective deed of cession of the territory claimed by it, and shortly thereafter Massachusetts surrendered whatever claim it might have, and Connecticut deeded the area to which it had title.

This is neither the time nor the place to go at length into the history of this memorable ordinance, or to trace in detail its effects upon the public policy of the United States. It will serve the present purpose to point out that by reason of its calling for the united effort of the people of all the colonies, and by reason of its raising up a centre of interest and ambition for them all, this ordinance and the territory to which it related played no mean part in preparing the public mind for the stronger and more effective governmental union that was soon to follow.

It was not unnatural that before the Articles of Confederation were wholly displaced, an effort should be made to revise and reform them. The Continental Congress had, before giving way to the Congress of the Confederation, asked the states to vest in the new government of the confederation the power to raise revenue by a tariff on imports; but the unanimous consent of all the states that was needed to approve this suggestion could not be had. In April, 1783, Hamilton and Madison, who were

already entering upon the formulation of those constructive national policies that were to make them famous, were the moving forces in preparing an address to the states, which the Congress adopted, urging such national financial policies as would enable the Congress to meet its obligations and to rise to the height of its opportunities. Specifically it was proposed that Congress should have the power to levy duties on imports and to collect them by officers of its own designation, and made responsible to it, and also that each state should undertake to levy special taxes for the purpose of meeting its quota of the requisitions made upon it by the Congress. The address is an eloquent and lofty plea that the states unite in enabling the Congress to pay the nation's just debts and to fulfil its obligations. "No instance has heretofore occurred," is the language used, "nor can any instance be expected hereafter to occur, in which the unadulterated forms of republican government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view the citizens of the United States are responsible for the greatest trust ever confided to a political society." [1] The appeal was in vain. For three years it was debated in the legislatures and in the public press. The opposition to the national policies proposed was so wide-

[1] *Journal of the United States in Congress Assembled* (Philadelphia, 1783), vol. VIII, p. 201.

spread and so violent that they had to be abandoned.

No better fortune attended the effort to establish a national army and navy under the control of the Congress. A committee, of which Hamilton was the head, was designated to formulate a plan for a military establishment of the United States; but nothing came of it beyond the fact that during its consideration Congress suffered the most humiliating experience which any national legislature was ever called upon to undergo, when a mere handful of dissatisfied and riotous soldiers actually drove the Congress from its seat in Philadelphia, and compelled it to take refuge in the academic halls of the College of New Jersey at Princeton. At every point attempts to reform and strengthen the government of the confederation met with failure. That this failure often repeated should have led to discouragement and despair is not to be wondered at. On June 27, 1786, John Jay wrote to Washington: "I am uneasy and apprehensive, more so than during the war."

The fortunes of the new nation were plainly at a low ebb. Every path to progress towards unity and strength appeared to be blocked by provincialism and selfishness. If progress was to be had a new start must be made under leadership that was skilful as well as wise. No one saw more clearly than Washington what was happening. "Our

character as a nation is dwindling," he wrote, "and what it must come to if a change should not soon take place, our enemies have foretold; for in truth we seem either not capable, or not willing, to take care of ourselves." [1]

Both Hamilton in New York and Bowdoin in Massachusetts saw and said that the fundamental defect in the existing scheme was the necessity of securing the unanimous consent of all the state legislatures to any proposal for the reform and strengthening of the Articles of Confederation to which the Congress itself might agree. Therefore, the wished-for progress in nation-building could not take place through and under the forms established by the Articles of Confederation. A way must be found to circumvent the provisions of those articles and to bring the people of the various states together in a real and permanent governmental unity.

It was Hamilton's conviction that the sovereignty which the states were exercising had been usurped by them, and that a way must be found to restore that sovereignty to the people as a whole. To deal with so difficult a situation was indeed a task for master minds. Governor Bowdoin, of Massachusetts, took the first step. In May, 1785, he asked the legislature of that state to adopt a

[1] *The Writings of George Washington*, edited by Worthington C. Ford (New York, 1891), vol. XI, p. 44.

resolution naming delegates to a national convention for the purpose of revising the Articles of Confederation. His influence obtained from the legislature a declaration that the existing government was unequal to the necessities of the people, and that a convention of delegates from all the states should be assembled to revise its form and powers. It is worthy of remark that when this resolution was received by the representatives of Massachusetts in the Congress, with instructions to lay it before the Congress and to urge its adoption, they did not have the courage to do so. Since the Congress had already refused to make public declaration of its own inadequacies and to ask the states for a revision of the existing framework of government, and since its pride and stubbornness were sufficient to cause it to block whatever attempts for improvement might be made by any other authority, it was clear that some entirely new line of action must be devised. Everywhere men were waiting for something to turn up, and what turned up was a movement among the citizens of the neighbouring states of Virginia and Maryland to induce their delegates in the Congress to take some satisfactory action in reference to the navigation and use for fishing purposes of waters that were common to them both. It was out of this little seed of what may properly be described as interstate commerce that the great tree of the federal consti-

tution was quickly to flower and to bear fruit. Even before Governor Bowdoin's message to the legislature of Massachusetts, the states of Virginia and Maryland had designated commissioners to meet at Alexandria, Virginia, to consider the question of co-operation between these states in respect of navigation and fishing rights in the waters of Chesapeake Bay. So soon as these delegates confronted their problem they found that while apparently local and specific, it really raised questions of a general character in which every state had an interest. On hearing the report of these commissioners the legislature of Virginia, on January 21, 1786, resolved to call a convention of delegates of all the states, to meet at Annapolis in September of that same year, for the consideration of questions affecting the commerce of the whole United States. So was set in motion the machinery for a common consultative body outside of the Congress of the Confederation. This common consultative body, although without any governmental authority, might easily take such steps and initiate such policies as would open the way to advance towards a sounder and stronger governmental unity. This was precisely what happened.

It was the keen eye and tireless brain of Hamilton that saw in this Annapolis convention the opportunity to make a beginning towards the accomplishment of his much more comprehensive plan for

a constitutional convention. He well knew that New York would exert a great influence in the conference at Annapolis because of the commanding position of its port of entry. Therefore, Hamilton and his friends quickly addressed themselves to the task of persuading the legislature of New York to accept the invitation of Virginia and to send delegates to the Annapolis convention. By a bare majority this action was taken, and Hamilton was named as a delegate. We may imagine his disappointment and that of the small group of nation-builders who surrounded him when, on reaching Annapolis, it was found that the representatives of but five states were present: New York, New Jersey, Pennsylvania, Delaware, and Virginia. Delegates who had been appointed from four states did not take the trouble to attend, and four states had taken no action whatsoever. Hamilton came to Annapolis with his mind made up to secure from this conference a declaration that the government of the confederation was incompetent to the needs of the nation, and an appeal to the people of the whole United States for a general overhauling of its provisions and powers. With but five states represented in the conference, however, nothing so far-reaching could be done. Nevertheless, the opportunity was not to be wholly lost. Hamilton and Madison joined in modifying Hamilton's original plan, and carried a resolution to the

effect that the existing conference should propose to the states a general convention of all the states, to be held at Philadelphia, to deliberate on the whole political situation, since the question of interstate commerce was so intimately related with many other questions, both economic and political, as to justify this step and make it necessary. The events of the preceding five years had helped to prepare the public mind for such action; but still there were great difficulties in the way.

Suppose that such a convention should be held and should agree upon recommendations: what should be done with them? By what authority should these recommendations be passed upon and approved? Hamilton, whose knowledge of public law was as great as his political science was sound, promptly answered that the recommendations should of course go to Congress, to be made subject to its ratifying power, and should then be sent by Congress to each state for confirmation. This plan followed in all respects but one the method provided for the amendment of the existing Articles of Confederation. The one point of difference was that the form of the amendments was to originate not in Congress itself but in a convention called for that specific purpose. Perhaps an even greater difficulty was a psychological one. The pride of the members of the Congress of the Confederation was hurt by the intimation that they themselves

were not the persons best fitted to formulate and submit amendments to the existing constitution. Yet, since Congress would have to pass upon the amendments when drafted, too much could not be made of this feeling. Finally the conference at Annapolis adopted and promulgated its proposals. Virginia took favourable action at once, but in Congress itself there were quick manifestations of displeasure and opposition. Hamilton's energy and resourcefulness were equal to the task. He determined to procure from the legislature of New York specific instructions to the New York delegates in Congress to move the adoption of the Annapolis plan and its recommendation to the states. He succeeded brilliantly, first in the New York legislature and then with the powerful assistance of Massachusetts in Congress itself, which, on February 21, 1787, adopted the following preamble and resolution:

Whereas there is provision in the articles of confederation and perpetual union, for making alterations therein, by the assent of a Congress of the United States, and of the legislatures of the several states; and whereas experience hath evinced, that there are defects in the present confederation, as a mean to remedy which, several of the states, and particularly the state of New-York, by express instructions to their delegates in Congress, have suggested a convention for the purposes expressed in the following resolution; and such convention appearing to be the most probable mean of establishing in these states a firm national government.

Resolved, That in the opinion of Congress, it is expedient, that on the second Monday in May next, a convention of delegates, who shall have been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the articles of confederation, and reporting to Congress and the several legislatures, such alterations and provisions therein, as shall, when agreed to in Congress, and confirmed by the states, render the federal constitution adequate to the exigencies of government, and the preservation of the union.[1]

This preamble and resolution taken together with the Ordinance of 1787 give distinction to the annals of the Congress of the Confederation and almost lead one to overlook the vexatious impotence of that body in ordinary matters of government. This declaration was tactfully drawn in a form which overcame the objections which several states had to taking part in any such convention, and it opened the way for drafting the constitution of the United States.

How greatly this action rejoiced the heart of Washington may readily be imagined. He was at first not over-hopeful of the results to be gained, and he expressed doubts as to the wisdom of his taking any part in the work of the Philadelphia convention. His scruples were fortunately overcome, and when the members of the convention assembled at Philadelphia and a quorum was had, Washington was their unanimous choice to preside over their

[1] *Journal of the United States in Congress Assembled* (Philadelphia, 1787), vol. XII, p. 17.

deliberations. When the constitution was adopted and submitted for ratification, Washington gave his influence for its acceptance, although he expressed dissatisfaction with some of its characteristics and provisions. The grounds for this dissatisfaction on his part are nowhere clearly and definitely expressed, but it may not be improper to assume that it rested, in part at least, on the checks and balances of the constitution and on the fear that the new government to be called into being would not be effective enough to achieve the national ends which Washington had in mind. If that be the true explanation of Washington's attitude, then once more his instinct and his vision simply anticipated the future, and he foresaw that conflict of interpretation over the meaning and intent of the constitution which gave form and shape to the history of the United States for three-quarters of a century.

The constitution was promptly ratified by eleven of the thirteen states, a sufficient number, and the Congress of the Confederation designated the first Wednesday in January, 1789, as the day for appointing electors in the several states, the first Wednesday in February as the day for the electors to assemble in their several states and vote for a president, and the first Wednesday in March as the time, and the then seat of Congress, New York, as the place for commencing proceedings under the new constitution.

On Wednesday, March 4, 1789, the House of Representatives, being the first session of that body under the constitution, met in the city of New York. Four representatives were present from Massachusetts, three from Connecticut, four from Pennsylvania, one from Virginia, and one from South Carolina. On the following day a representative from New Hampshire, an additional representative from Massachusetts, two additional representatives from Connecticut, and one additional representative from Pennsylvania appeared and took their seats. On each following day adjournment was had through lack of a quorum until Wednesday, April 1, when a quorum being present a speaker and a clerk were chosen, and the House of Representatives was organised for the transaction of business. On April 6 the vote of the electors for president and vice-president was reported, and it was found that George Washington, of Virginia, had received the vote of every participating elector, sixty-nine in all, and was chosen the first President of the United States. It is not always remembered that ten only of the thirteen original states participated in this act. Rhode Island and North Carolina had not yet ratified the constitution, while New York, because of violent party quarrels in its legislature, was unable to appoint presidential electors. John Adams of Massachusetts, having received thirty-four electoral votes, the greatest number after the choice of

the president—which was the provision of the original constitution and continued until the adoption of the Twelfth Amendment in 1804—was declared chosen to be vice-president. His services to the colonies and to the states during the trying days since 1774 had been literally colossal. Having been absent in Europe on public business during the sessions of the constitutional convention, he was in a measure removed from the influence of the partisan differences which found expression during the struggle over ratification. Nevertheless, he was a strong Federalist, and wholly in sympathy with the new constitution, although not publicly active in its support. The formal inauguration of President Washington took place in New York on April 30, with appropriate ceremony.

The father of his country had now become its chief magistrate with every possible mark of confidence, of respect, and of affection. George Washington had been commander-in-chief of the Continental army throughout the war; he had been president of the constitutional convention; he was now first President of the United States of America. The ship of state, which he had contributed so powerfully to build and to launch, was now to set out upon its voyage over the uncharted seas of history under his personal command.

It is difficult for us to visualise the conditions under which the members of the new government

assembled to undertake their several tasks. They had before them the plans for a new structure, as well as its foundations; the structure itself had now to be built as speedily as might be. There was then no White House or other official residence for the president. There was then no Capitol or other official place of assembly for the two houses of Congress. The members of the supreme court were yet to be named. Everything, in fact, except those matters of fundamental principle that were laid down in the constitution, was on the knees of the gods. The president's cabinet was speedily constituted of the heads of the four executive departments that were first and necessarily provided. Thomas Jefferson of Virginia was named secretary of foreign affairs, the first and preferable name for what later came to be known as the Department of State. Alexander Hamilton of New York, Washington's devoted admirer and intimate friend, was appointed secretary of the treasury. General Henry Knox of Massachusetts, who had surrendered his occupation as bookseller in Boston to become first an effective, and then an important, military commander and counsellor of Washington, was made secretary of war. To be attorney-general, Edmund Randolph of Virginia, was designated. Randolph was a lawyer of great ability, and had seen public service in the Continental Congress, in the Annapolis conference, and in the Constitutional Conven-

tion. His reputation for good judgment and consistency is not equal to his reputation for ability as a lawyer, since he pretty well boxed the compass of political debate during his lifetime, and ended his career by appearing as counsel for Aaron Burr.

In the first Senate there were not a few men of national reputation and capacity for leadership. South Carolina sent Pierce Butler, and Maryland Charles Carroll. Virginia had chosen Richard Henry Lee. Connecticut sent two exceptional men in Oliver Ellsworth and William Samuel Johnson. New York named Rufus King and Philip Schuyler, while Pennsylvania sent Robert Morris and William Maclay. One of New Jersey's first senators was William Paterson, whose name and plan of government had played a prominent part in the work of the Constitutional Convention.

The roll of the House of Representatives contained but few names that were then, or have since, become widely known. Perhaps the House was all the more representative of the whole people on that very account. Of all the members of the lower house in the First Congress, James Madison of Virginia was easily the most important and the most distinguished, and it is an odd bit of political history that he had been elected over James Monroe, who was later to succeed him in the presidency.

The foreign relations of the United States were in their infancy. But four treaties were in existence

when the new government came into being. These were the treaty of 1778 with France; the treaty of 1782 with the Netherlands; the treaty of 1783 with Great Britain; and the treaty of 1785 with Prussia. The last-named treaty, to which the signatures of Benjamin Franklin, Thomas Jefferson, and John Adams were attached, contains some liberal provisions which are even now only a prophecy in the ordinary conduct of international relations.

The national fiscal system had to be created out of nothing, and to this almost superhuman task Hamilton devoted himself with an ability and a success that have passed into history. The judicial branch of the government could not come into being until the Congress had enacted the necessary enabling legislation. Therefore, some months passed before the president could appoint the members of the first Supreme Court of the United States. On September 24 Washington sent to the Senate the names of the following persons as members of that court:

John Jay of New York, to be chief justice, and John Rutledge of South Carolina, James Wilson of Pennsylvania, William Cushing of Massachusetts, Robert H. Harrison of Maryland, and John Blair of Virginia, to be associate judges. Two days later these nominations were confirmed by the Senate, and all three branches of the new national government were fully constituted.

For two terms of four years each George Washington served as the nation's chief executive. During that time the differences of opinion which had been marked from the beginning grew in vigour and intensity, particularly as these differences became associated with the personality and influence of varying political leaders. Washington had always endeavoured to hold himself above all distinctions of party, and indeed on more than one important occasion expressed the view that parties were in effect factions. Nevertheless, when the struggle over the ratification of the constitution began and sharply divided men in all parts of the United States, Washington was forced to throw his influence with those who supported the constitution and who came to be known as Federalists. Their opponents were obviously anti-Federalists, and that name was applied to them.

Washington's unanimous election to the presidency and his unanimous re-election four years later marked the fact that, whatever his opinions, the general sentiment of all parties united in esteem and affection for him. Nevertheless, the controversy which the very existence and provisions of the constitution in part concealed and in part invited, could not be avoided. At his own council-table sat both Alexander Hamilton, who was bent on making the new government effective and making it work, and Thomas Jefferson, who both

disliked and distrusted Hamilton personally and regarded all plans for a strong government as monarchical in essence and as inimical to civil and political liberty. Washington impartially sought the advice of each leader, and was accustomed to submit the important proposals of one to the criticism of the other. Yet being heart and soul a Federalist, Washington could not tread the same path with his fellow Virginian, and found himself steadily drawn more and more to the support of the policies of Hamilton. About these two leaders in the cabinet there quickly grew up groups of followers throughout the country, and these groups naturally became opposing political parties. The followers of Hamilton and his friends were Federalists, and the followers of Jefferson and his group were first called Republicans, and some years afterwards Democrats.

Those who are concerned for the bitterness, the unfairness, and the unscrupulous intrigue that accompany much contemporary political controversy may take heart when they read of the happenings during the last few years of Washington's presidency. No criticism was too unfair or too extreme to be made against him, and no epithet too unjustified and too vulgar to be hurled at his head. Washington's outward calm under these attacks concealed a spirit that was often sorely wounded and hurt, but his splendid self-mastery and his superb confidence in the victory of sound principle and high

purpose gave him comfort and reasonable content. When preparing to leave Mount Vernon for New York to be inaugurated first president, Washington wrote to General Knox that his "movements to the chair of government will be accompanied by feelings not unlike those of a culprit who is going to the place of his execution." [1] As his term of official service drew towards its close he may often have reflected upon the feelings which prompted that sentence and have felt that experience had justified them. Thomas Paine had the bad taste and the bad manners to express doubt as to whether the world would decide Washington to be an apostate or an impostor. The world has unanimously declined that privilege. A member of Congress from the state of Virginia, William B. Giles, heaped upon Washington such insults as were within his feeble power. In the debate upon the president's message during the opening days of the second session of the Fourth Congress, Giles distinguished himself by the variety and bitterness of his criticisms of the president. He thought that the government of the United States could go on very well without him, and that thousands of citizens were able to fill that high office with credit and advantage. By some strange doctrine of metaphysics, Mr. Giles endeavoured to insult George Washington as president while pro-

[1] *The Writings of George Washington*, edited by Worthington C. Ford (New York, 1891), vol. XI, p. 379.

fessing esteem for him as a private individual. In recompense Giles is only remembered because of these mean-spirited acts. At the time of Giles's death, Benton, who described him as one who "neither read nor studied, but talked incessantly with able men, rather debating with them all the while,"[1] quoted Randolph as having expressed the opinion that Giles, like Fox in the House of Commons, was the most accomplished debater which his country had ever seen.

The press of the anti-Federalist or Republican party, as it was then called, teemed with expressions of contempt and abuse. The charge that Washington had debauched the nation and deceived it was openly made and printed. He was even accused of having worn the mask of patriotism in order to conceal the foulest designs against the liberties of the people. To so great depths of meanness and calumny can human beings be brought by the spirit of party.

Washington's remaining years were few, and when, on December 14, 1799, he breathed his last, he had finished a career which for completeness and worth of accomplishment stands by itself in the annals of free government. Not alone the new nation of which he was so truly the father but the whole world joined in acclaiming the virtues and

[1] Benton, Thomas H., *Thirty Years View*, 1820–1850 (New York, 1854), vol. I, p. 683.

the excellences of the man. This quiet, self-controlled Virginia gentleman, who had led a new nation into being and on to the accomplishment of its fondest hopes, and who had been brought into years of armed conflict with Great Britain and to the very verge of armed conflict with France, was hailed both in Great Britain and in France as a great world figure and mourned there with every mark of official and private distinction and grief. The proud fleet of Great Britain carried its flags at half-mast when the news of George Washington's death was received, and Bonaparte, then first consul, decreed, on the recommendation of Talleyrand, his minister of foreign affairs, a permanent memorial of his name and fame. Fisher Ames, in his oration before the legislature of Massachusetts "On the sublime virtues of General George Washington," pointed with his well-known eloquence to the repute which the character of Washington had given to his country. "Our nation shares with him," said Ames, "the singular glory of having conducted a civil war with mildness, and a revolution with order."[1] Eulogies without number were pronounced by eloquent voices far and near, but the unique and the lasting eulogy of Washington is found in his place in the hearts of his fellow Americans.

On the banks of the Potomac, within the confines

[1] *The Washingtoniana* (Lancaster, 1802), p. 94.

of the capital city which so rightly and so significantly bears his name, rises to a great height a simple, well-proportioned shaft, wholly unadorned, which is visible for miles around. This shaft has been placed on that spot by public authority, to mark as sign and symbol, so long as its stones shall weather the storms of time, the singular place which Washington will forever hold in the history of the building of the nation which is the United States of America. The famous phrase of Henry Lee, member of Congress from Virginia, in his funeral oration delivered in Philadelphia before the Congress, is hackneyed but forever true. Washington was and is assuredly "First in war—first in peace—and first in the hearts of his countrymen."[1]

It is of striking significance that the author of this phrase, which has passed into literature, was the father of that Robert E. Lee who, sixty years later, was to gain fame as the great commander of the armies of the Southern Confederacy, whose object was to destroy that very union in whose making Washington had had so commanding a part. Such are the ironies of human history.

[1] *The Washingtoniana* (Lancaster, 1802), p. 34.

III

MASTER-BUILDERS OF THE NATION

ALEXANDER HAMILTON AND JAMES MADISON

Delivered at the University of Cardiff, May 29, 1923

MASTER-BUILDERS OF THE NATION

ALEXANDER HAMILTON AND JAMES MADISON

It is now appropriate to examine the form and character of the organisation and government which the new nation had adopted and which, under Washington's guidance, had been set in operation. Here there is some danger of not being able to see the wood for the trees. So vigorous, so sharp, and so interesting were the discussions both in the Constitutional Convention at Philadelphia and in the conventions called by the several states to ratify the constitution, that there is strong temptation to deal with many matters other than those that are essential to an understanding of the elementary principles of the constitution itself.

Disposition must first be made of the notion recently advanced that the provisions of the constitution of the United States were framed and accepted under the primary influence of the economic appetites and the economic interests of men. The crude, immoral, and unhistorical teaching of Karl Marx as to the moving forces in human history has affected the views of many who do not by any means accept all the conclusions which Marx himself drew from his premises. To assign motives

for the action of another is to reveal one's self; it means that the writer would be influenced under similar conditions by the motives that he ascribes to those of whom he writes. If one be without fixed and definite principles of life and conduct, and if he be guided merely by self-interest and personal advantage, he will find only these characteristics when he attempts to interpret the actions of other men. Just this has happened in the case of those recent writers who would have us believe that the ruling motive behind the constitution of the United States was the protection of the property interest of those individuals and groups that were chiefly concerned in its framing and ratification. It is a travesty to dignify so unscholarly an adventure by the title of an economic interpretation of history. Such a view-point would see in the hearts and minds of the millions of young Britons and Americans who crossed the dividing waters in the years 1914 to 1918, in order to give battle on the soil of France and of Belgium in the great war, nothing more than a selfish desire to protect and make good their investments in the war loans and liberty bonds issued by the respective governments of their native lands. Before so amazing a picture argument stands helpless, and must give way to ridicule.

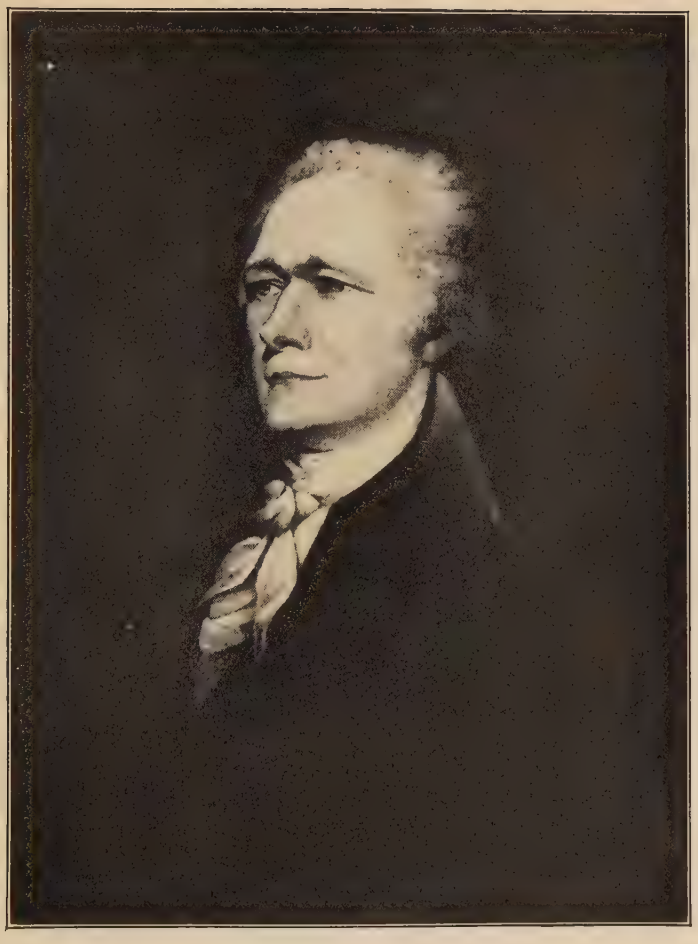
A word of warning must also be spoken to those who would write history from the documents and

from the documents alone. If one has had any part in the making of history, or if he has had intimate knowledge of it in the making, he knows full well how imperfect and inadequate are the formal written records, and how often these must be supplemented and interpreted by a knowledge of individual personalities, of personal relationships, and of vitally important incidents that are frequently recorded only in their distant results. This warning applies with particular force to the share of responsibility for the constitution of the United States which belongs to Alexander Hamilton. Because of the fact that Hamilton left the convention at Philadelphia shortly after his great speech of June 18, 1787, for the reason that his two anti-Federalist colleagues in the representation of the state of New York overbore him and cast the vote of his own state in constant opposition to his views, and since the plan for a constitution which he presented in outline was not used, the conclusion has been drawn that Hamilton's part in the making of the constitution was not important. If, however, his personal relations with Washington and other leaders in the work of the convention be kept in mind, and if the task of preparing the way for the convention, of getting it called, of framing a constitution, of interpreting it in *The Federalist*, of securing its ratification, and then of setting in motion the national government by effective administra-

tion be taken together as parts of one great episode, the work of Hamilton in it all was not only commanding but colossal. He was in very fact the master-builder. All the provisions of the constitution did not satisfy Hamilton. They did not satisfy Washington or Franklin. Nevertheless, his practical sagacity and constructive mind led him to make the work of the convention his own, and to place it before the people of the United States with a warmth of sympathy and a completeness of understanding that were quite unequalled.

Every great work offers opportunity to more kinds of talent than one. If Hamilton was a master-builder by reason of his broad vision, his philosophic grasp of the principles of government, his practical administrative skill, and his unrivalled powers of exposition and argument, so Madison was a master-builder by reason of his wide and accurate knowledge, his patient industry, and his capable willingness to work out in detail what others were content to sketch only in outline. Without Alexander Hamilton and James Madison the constitution of the United States could never have been drafted by the convention or adopted by the people. By reason of this inestimable service they became master-builders of the nation.

Alexander Hamilton was born on the island of Nevis, one of the smallest of the British West Indies, on January 11, 1757. He was descended through



ALEXANDER HAMILTON

1757–1804

From a painting by John Trumbull

his father, James Hamilton, who had gone to the West Indies to seek his fortune, from the well-known Ayrshire family of Hamiltons of Grange. So dramatic and so full of incident was his short life that a volume might easily be spent upon it. Whether we see him as an earnest youth seeking instruction at King's College in the province of New York, long since become Columbia University, or whether we see him with youthful ardour writing pamphlets in defence of the positions taken by the colonists, or as a brave and competent officer of the Continental army quickly gaining the confidence and affection of Washington, or as the talented and eloquent leader of the New York bar, or as a persistent and ingenious pleader for a stronger and better government, or as a secretary of the treasury whose achievements are yet unrivalled, or as a writer on the philosophy of government who has carved his name by the side of that of Aristotle, there is about Hamilton an infinity of charm and attractiveness that passes all description. Whatever proud eminence be assigned to any other, Alexander Hamilton stands as the greatest and most commanding intellect that the new world has produced. Only Jonathan Edwards and Ralph Waldo Emerson can approach him. Like so many other powerful personalities, Hamilton was as bitterly hated as he was dearly loved. His freely expressed admiration for the British constitution and his ad-

vocacy of a strong, effective national government for the United States led Hamilton's critics to describe him as a monarchist and an enemy of liberty. Yet in fact no man laboured more earnestly than Hamilton to dispossess British sovereignty over the colonies, and none surpassed him in efforts to provide civil and political liberty with both a soil in which to grow and those safeguards against storm and stress that would protect them from destruction.

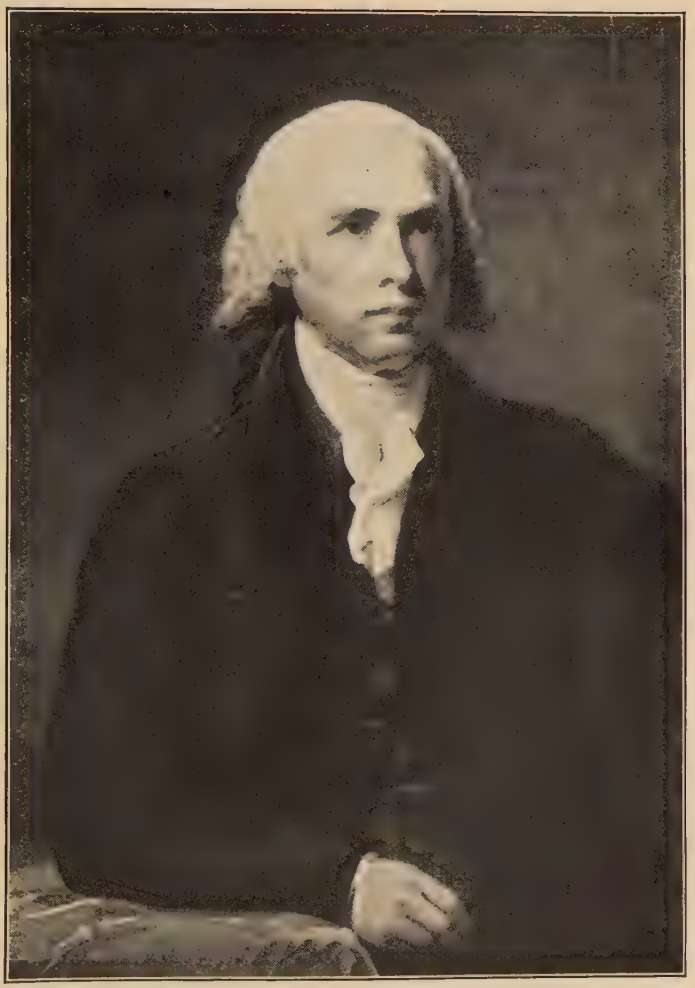
On the southerly side of Trinity churchyard in the city of New York where a noble temple of the Christian faith stands facing one of the busiest centres of the world's business, there is a short marble shaft which marks the place where the mortal remains of Alexander Hamilton were laid to rest at the age of forty-seven. A misguided sense of what was due to personal honour led him to accept Burr's challenge to a duel, and the light of his life went out. The spot where his body lies buried is sacred to every American who feels the deeper meaning of his country's existence and opportunity. Under this stone lies all that was mortal of a man to whose memory the United States of America can never begin to pay its full debt. "The most substantial glory of a country is in its virtuous great men; its prosperity will depend on its docility to learn from their example. That nation is fated to ignominy and servitude for which such men have lived in vain. Power may be seized by a nation that is yet

barbarous; and wealth may be enjoyed by one that it finds or renders sordid; the one is the gift and the sport of accident, and the other is the sport of power. Both are mutable, and have passed away without leaving behind them any other memorial than ruins that offend taste, and traditions that baffle conjecture. But the glory of Greece is imperishable, or will last as long as learning itself, which is its monument; it strikes an everlasting root, and bears perennial blossoms on its grave. The name of Hamilton would have honoured Greece in the age of Aristides. May heaven, the guardian of our liberty, grant that our country may be fruitful of Hamiltons, and faithful to their glory!" [1]

It is only possible to group Hamilton and Madison together as master-builders of the nation if there be a word of explanation. Their several accomplishments in the work of nation-building are related very much as are those of an architect of great genius and broad range of imagination who looks upon the product of his labours with affectionate interest and who follows its occupancy and use with solicitous and helpful concern, and those of a superintendent of construction who measures and weighs the materials that go into the building and who oversees the laying of course upon course as the

[1] From a sketch of the character of Alexander Hamilton written by Fisher Ames immediately after Hamilton's death in July, 1804. See *Works of Fisher Ames*, edited by his son (Boston, 1854), vol. II, pp. 263–264.

structure rises to view. Hamilton had a firm grasp on principle that nothing could shake, a brilliancy that no discouragement could dim, a power of imperious advocacy that overbore all obstacles, and a persistent consistency of political character that never wavered no matter what opposition or temptation might confront him. Madison's flight never reached the upper airs where genius makes its home. He was learned, patient, plodding, and industrious. His work upon the constitution was indispensable, and his record of the debates in the convention is the primary and original source of our information as to what took place behind those closed doors. Nevertheless, Madison's work upon the constitution had barely been completed when he appeared as a leader among those who would restrict its operation, narrow the interpretation to be placed upon it, and put obstacles in the way of the effective administration of its provisions. It is almost impossible to reconcile, as the work of one and the same mind and hand, Madison's contributions to the constitution and his authorship of the Virginia Resolutions of 1798. Whether it was his jealousy of Hamilton or his friendship for Jefferson, or, as some have thought, his personal political ambition that directed his course, certain it is that there are two very different Madisons to be reckoned with. The one, born of a family of Virginia planters in comfortable circumstances, came into public life at the early age



JAMES MADISON

1751–1836

From a painting by Gilbert Stuart

of twenty-three, after obtaining at the College of New Jersey as excellent an education as the times afforded, saw service in the first convention of his state, in the Continental Congress, at the Annapolis conference, and, after George Washington, became the most conspicuous representative of Virginia in the constitutional convention at Philadelphia, as well as one of its two or three most active and influential members. The other and later Madison became the leader of the anti-Federalist or Republican party in the First Congress, was the author of the Virginia Resolutions of 1798 which practically denied the entire body of principle upon which the framework of the new government had been supposed to rest, and then after eight years as secretary of state in the cabinet of Thomas Jefferson succeeded him for two terms as fourth President of the United States. From every point of view save one this is the history of an exceptionally notable public career. What is lacking is that which was so conspicuously present in the case of Samuel Adams, of Benjamin Franklin, of George Washington, of Alexander Hamilton, and of Thomas Jefferson, namely, a firm, consistent, and unwavering moral and political character. Either Madison was a trimmer, in the sense in which that word has come to be used since its first introduction to the language by Halifax, or he is inexplicable.

In the older part of the city of Philadelphia,

placed on an island of quiet where the swift-flowing currents of commerce pass by on either side, stands Independence Hall. The lines of its familiar beauty and its simple dignity beckon the most careless passer-by to enter. In that building, all of which is of compelling interest, is a room of modest size and admirable proportions which no American, and indeed no genuine lover of liberty, can enter without a thrill and a feeling of awe. Between those four walls the Declaration of Independence was signed and given to the world out of a decent respect to the opinions of mankind, and between those same four walls eleven years later took place at least some of the debates which resulted in framing the constitution of the United States. The home of Washington at Mount Vernon, Virginia, the tomb of Lincoln at Springfield, Illinois, and Independence Hall in the city of Philadelphia, are three sacred shrines and places of pilgrimage which the American people will hold in affectionate respect so long as their character shall endure and their ideals be preserved inviolate.

On May 14, 1787, there came to Independence Hall, then known as the State House, George Washington, delegate to the constitutional convention from the state of Virginia. This was the day appointed for the convention to assemble, and it is wholly characteristic of Washington that no matter what others might do, he was on hand at the moment

when his presence was expected. Only Virginia and Pennsylvania were represented on that day. Three days later delegates from South Carolina arrived, and on the day following the representation from New York appeared.

After waiting a week there were present representatives from but five states. On May 25 this number was increased to seven, according to the diary of Washington, and to nine, according to the notes of Madison; either of these numbers being a quorum of the thirteen states, the members present resolved to organise the convention. By unanimous vote George Washington was called to the chair on the nomination of the Pennsylvania delegation. The convention was now organised and ready for business and its deliberations began.

From the point of view of an American, and perhaps from any point of view whatsoever, the group of delegates there brought together was extraordinary. At one time or another fifty-five different individuals participated in the work of the convention, of whom more than two-thirds had already seen service in the Continental Congress. Some had taken part, between 1776 and 1780, in framing the first constitutions of their respective states. More than half of the participating delegates were lawyers, not a few of whom had received their instruction and discipline in England or Scotland. They were men of few books but of very good

books, and their combined knowledge of the history and principles of government was amazing. Moreover, it was a convention of young men; the venerable Franklin was, to be sure, more than eighty years of age, but he was unique in his long life. Washington himself was but fifty-five, and the more active and ardent spirits of the convention were much younger. It seems almost incredible that Hamilton was only thirty, while Madison was but thirty-six. So great wisdom and influence and such comparative youth are not often combined in one personality. In all earlier history of the development of governments the details of their form and structure had been of slow growth. The natural and convenient habits of men in their intercourse with each other hardened into institutions, and abuses were met either by specific declarations of policy or intent or by revolution. Here, on the other hand, was a definite, concerted attempt to distil from the experience of the ages, from the institutions of the English-speaking peoples, and from the needs of the co-operating states themselves the elements of a framework of government which might be reduced to writing to serve public officers as a chart and compass serve a mariner. Surely it was a bold adventure and one which could only succeed if zeal for improvement were tempered with tactful skill and if knowledge were ripened into wisdom.

Constitution-writing was in the air. The constitutions already adopted by the several states were in existence to serve as models, and the plain defects of the Articles of Confederation had stimulated various minds to propose substitutes for them. At least a half-dozen members of the Philadelphia convention had given careful attention to the outlines and details of a new federal constitution, and various public men, journalists and pamphleteers, had offered more or less carefully worked out suggestions of their own. One such, for example, was "A Dissertation on the Political Union and Constitution of the Thirteen United States," offered to the public in 1783 by Pelatiah Webster, a merchant and man of affairs of Philadelphia.

When the convention was organised it was wisely decided to conduct the debates behind closed doors. Despite a wide-spread impression to the contrary, the public interest gains and does not suffer when responsible representatives are able to carry on their preliminary consideration of large public policies in intimate and confidential conversation and discussion rather than before galleries filled with applauding or disapproving spectators together with representatives of a truculent and sensation-loving press. When feeling was running as high as it was in 1787 the constitutional convention might well have reached no conclusion whatsoever had its debates been conducted publicly. Indeed, it was not

until 1840, four years after Madison's death, and more than fifty years after the adoption of the constitution, that Madison's notes, furnishing the only complete and veracious record of what took place in the convention, were published.

Little time was wasted in aimless debate, for on May 29 Randolph of Virginia opened the main business of the convention by presenting fifteen definite and specific resolutions, which, if adopted, would indicate with precision the form and character of the new government. He accompanied these resolutions with a careful speech which ended in an exhortation not to suffer the present opportunity of establishing general peace, harmony, happiness, and liberty in the United States to pass away unimproved. The resolutions presented by Randolph constitute the so-called Virginia Plan, and there is but little doubt that Madison had an important part in their preparation. According to this plan there was to be provided a national legislature of two branches, the members of the first branch to be elected by the people of the several states, and the members of the second branch to be elected by those of the first branch from a list of nominees prepared by the respective state legislatures; there was to be instituted a national executive, chosen by the national legislature, and a national judiciary, the members of which should hold their office during good behaviour; the executive and a convenient

number of the national judiciary were to constitute a council of revision, with authority to examine every act of the national legislature before it went into operation, as well as every act of a particular legislature; this council of revision to have the power of suspensive veto; a republican form of government was to be guaranteed by the United States to each state; and definite provision for the amendment of the constitution was made. Following Randolph's speech and the introduction of the Virginia Plan one of the youngest members of the convention, Charles Pinckney of South Carolina, offered a draft which he had prepared. No copy of the original form of this plan has been preserved, but the patient endeavours of historical scholars have reconstituted it, at least in outline. Pinckney's plan being that of an individual delegate could hardly be expected to weigh heavily against the plan which had the formal support of the entire representation of the state of Virginia in the convention.

On May 30 debate on the Virginia Plan began in committee of the whole and went forward with varying fortunes for a fortnight. On June 13 the committee of the whole reported back to the convention with approval the Virginia Plan amended in a number of important particulars. During these two weeks of debate the members of the convention aligned themselves as either for or against an effec-

tive national government. The influence of Washington and of Franklin was consistently in favour of a strong central organisation, and both Madison and James Wilson of Pennsylvania, an exceptionally learned and powerful legal mind, were spokesmen on the same side. With them stood generally Rufus King and Elbridge Gerry of Massachusetts, Gouverneur Morris of Pennsylvania, Edmund Randolph of Virginia, and both Pinckneys of South Carolina. Against them were pretty consistently ranged Roger Sherman and Oliver Ellsworth of Connecticut, William Paterson of New Jersey, Luther Martin of Maryland, and both Gunning Bedford and John Dickinson of Delaware.

No sooner had this report been received than Paterson of New Jersey laid before the convention a plan which he said several of the deputations wished to have substituted for that proposed by Randolph. This is the so-called New Jersey Plan, which offered an amendment and revision of the existing Articles of Confederation in place of the proposal to establish an entirely new national government. The convention now had before it a sharp alternative. It was either to proceed to build a strong national government along the lines laid down by the Virginia Plan, or it was to turn its back upon this policy of substantial progress and content itself with revising and amending the Articles of Confederation in the general manner set out in the New Jersey Plan. At this critical moment Hamilton

took the floor. Heretofore he had not intervened in the formal debates of the convention, but it requires no great effort of imagination to picture his eager presentation in conversation and in conference of the necessities of the new nation upon whose building he had set his heart. On June 18 Hamilton spoke for more than five hours, and the impression which he created was profound. His specific suggestions for the new constitution were not so important as his setting forth of the whole philosophy of government, and his clear presentation of the only sure foundation upon which a permanent structure could be erected.

Hamilton presented his draft at the right moment, and the startled impression it made quite satisfied him, particularly as his long speech to the Committee of the Whole was received with the closest attention. Nothing could alter his personal fascination, and even his bitterest enemies rarely left their chairs while he spoke. The small figure, so full of dignity and magnetising power that it excluded every other object from their vision, the massive head with a piercing force in every line of its features, the dark eyes blazing and flashing, the graceful rapid gestures, and the passionate eloquence which never in its most apparently abandoned moments failed to be sincere and logical, made him for the hour the glory of friend and enemy alike, although the reaction was correspondingly bitter. Upon this occasion he spoke for six hours without the interruption of a scraping heel; and what the Convention did not know about the science of government before he finished with them, they never would learn elsewhere.[1]

[1] Atherton (Gertrude), *The Conqueror:* a dramatised biography of Alexander Hamilton (New York, 1916), pp. 261–262.

It was this speech which turned the tide and determined the choice which the convention would ultimately make. Hamilton himself withdrew from the convention shortly afterwards, partly because he could no longer neglect his legal practice in New York and partly because his pride was hurt by the fact that his two anti-Federalist colleagues from New York, Robert Yates and John Lansing, constantly cast the vote of his state in opposition to his wishes and convictions. He was not, however, out of touch with the work of the convention, but corresponded with Washington and others as to the details of its business.

On July 10 Washington used this language of discouragement in writing to Hamilton:

> When I refer you to the state of the counsels, which prevailed at the period you left this city, and add that they are now if possible in a worse train than ever, you will find but little ground on which the hope of a good establishment can be formed. In a word, I almost despair of seeing a favourable issue to the proceedings of our convention, and do therefore repent having had any agency in the business.
>
> The men, who oppose a strong and energetic government, are in my opinion narrow-minded politicians, or are under the influence of local views. The apprehension expressed by them, that the *people* will not accede to the form proposed, is the *ostensible*, not the *real* cause of opposition. But, admitting that the present sentiment is as they prognosticate, the proper question ought nevertheless to be, Is it, or is it not, the best form that such a country as this can adopt?

If it be the best, recommend it, and it will assuredly obtain, maugre opposition. I am sorry you went away. I wish you were back. The crisis is equally important and alarming, and no opposition, under such circumstances, should discourage exertions till the signature is offered.[1]

As the discussions at Philadelphia proceeded it became increasingly clear that a plan of genuine union could be agreed upon if the larger and more powerful states were assured that they would not be turned over to the control of the smaller and less powerful, and if the smaller and less powerful states could be protected against what they feared might be exploitation by the larger and more powerful. If the new national legislature was to be constituted on the basis of population or taxable wealth, the larger states would control it; if, on the other hand, it was to be constituted on the basis of an equality between all the states, then the smaller states might control it. It was after prolonged discussion and the insistent urging of many different views that the plan was finally hit upon of constituting the House of Representatives according to population and the Senate on the basis of an equality between the states. Whatever may be said in criticism of this plan from the standpoint of logic, and whatever may have been some of the embarrassments in its practical operation, it cannot be denied that agreement upon

[1] *The Writings of George Washington*, edited by Worthington C. Ford (New York, 1889–1893), vol. XI, p. 162.

it was essential to the adoption of the constitution. There remained many details to be settled, and these were worked out either in open debate or through small committees of reference. On August 6 a committee of detail, appointed some time earlier, reported the draft of a complete constitution. Upon this a new debate arose, and for five days each week and for five full weeks the convention hammered and chiselled. Agreement on difficult points was constantly reached and it was plain that a successful end to the deliberations of the convention was in sight. If compromises were offered and made they were only such as the necessities of the case demanded. Some of them were to leave an indelible mark upon the subsequent history of the people of the United States. On September 8 the convention elected by ballot a committee to revise the style and arrange the articles of the new constitution as these had been agreed upon. This vitally important committee consisted of William Samuel Johnson of Connecticut, Alexander Hamilton of New York, who had returned to the convention, Gouverneur Morris of Pennsylvania, James Madison of Virginia, and Rufus King of Massachusetts. These are the men to whom we owe the exact language and arrangement of the provisions of the original constitution of the United States. They were all strong friends of that constitution, and of substantially one mind as to the form of govern-

ment to be brought into being. This committee reported through William Samuel Johnson on September 12. The report was presented in the handwriting of Gouverneur Morris, and the presumption is that it was written by him, but that Hamilton, Madison, Johnson, and King were wholly silent during its preparation is a supposition too violent for belief.

At the very last moment Randolph, who had himself presented the Virginia Plan four months earlier, pointed out what he thought to be the indefinite and dangerous power given by the constitution to Congress, and indicated that it would not be possible for him to put his name to the instrument as it then stood. Nevertheless, the question was put as to whether the constitution in the form reported by the committee on style should be agreed to, and upon this motion all the states represented voted Aye.

Two days later, on Monday, September 17, 1787, the convention met to receive and to sign the engrossed copy of the constitution. It was then that Benjamin Franklin made a characteristic and highly diplomatic speech.[1] He was followed by others, and a single amendment was adopted, with the support of Washington, lowering from 40,000 to 30,000 the number of inhabitants to serve as the unit of

[1] *The Writings of Benjamin Franklin*, edited by Albert Henry Smyth (New York, 1906), vol. IX, p. 607.

computation in apportioning among the several states representatives in the lower house of Congress. The constitution was then signed by all the delegates present, except Randolph and Mason of Virginia, and Gerry of Massachusetts, and the famous convention was dissolved.

The constitution provided in its seventh and last article that its ratification by the conventions of nine states should be sufficient for its establishment between the states so ratifying. The struggle and the debates were, therefore, transferred from Philadelphia to the meeting-places of the several state conventions to which the constitution was transmitted in a letter signed by Washington, which is a brief and compact but astonishingly complete argument for the acceptance of its plan of government.[1] The first state to ratify was Delaware, whose representatives at Philadelphia had been difficult to convince, and the second state was Pennsylvania, whose delegates had borne a leading part in the constructive work of the convention. Then quickly followed New Jersey, Georgia, and Connecticut. In Massachusetts there was vigorous and for a time doubtful debate, particularly since Samuel Adams was at first in opposition. Finally, on February 6, 1788, the Massachusetts convention voted to ratify the new constitution, with an expression of opinion that certain amendments and alterations in it would

[1] See Appendix, p. 347.

remove the fears and quiet the apprehensions of many of the good people of that commonwealth. The resolution of ratification contained the suggestion for a bill of rights to be in some way written into the constitution and made a part of it. Maryland ratified next, and then followed South Carolina, with a declaration of a desire for certain minor alterations. Eight states had now ratified the constitution, and but one more was needed to make its provisions effective. In New Hampshire, in New York, and in Virginia the battle waged fast and furious. The anti-Federalists were strong in all three states, and they were willing to go to great lengths to prevent the adoption of the constitution. Hamilton in *The Federalist* was, with the aid of Madison and Jay, pouring out his illuminating expositions of the provisions of the constitution and his cogent arguments for their acceptance. His enemies and those of a strong central government were as busy and as vigorous in opposition. The New Hampshire convention met at Exeter and adjourned for several months, to the great disappointment of the friends of the constitution. On reassembling, the New Hampshire convention ratified the constitution by a narrow vote, and in taking that action recommended amendatory declarations and provisions similar to those already proposed by Massachusetts. So slow was communication, however, that it was some time before the ratification

by New Hampshire, as the ninth state, was known either in New York or in Virginia.

Before the New York convention, packed as it was against the constitution by Hamilton's political foes, he was making the supreme struggle of his life. Never was his eloquence more powerful or his indomitable will more prevailing. He overbore every obstacle, and finally, on July 25, brought an antagonistic and reluctant convention to the ratification of the constitution by a majority of three votes. This achievement by Hamilton is one of the greatest and most far-reaching triumphs of forensic oratory, for he not only stirred grand emotions but actually changed hostile votes. The master-builder was at work again. The New York convention was even more lengthy and explicit than the conventions of Massachusetts and New Hampshire in its demand for a bill of rights; but it ratified the constitution, without which ratification while the new nation might have gone forward in law, it could hardly have done so in fact New York was plainly the keystone of the national arch. Had it withheld ratification the geographic unity necessary to the new nation would have been destroyed.

In Virginia a like battle was raging. James Madison and John Marshall were explaining and defending the new constitution, while Patrick Henry was pouring out upon it the full measure of his rhetorical invective. When the debate ended, Virginia, from

whose delegation at Philadelphia the original plan for the constitution had come, ratified the work of the convention by a majority of but eight votes. It finished its deliberations a month earlier than did the New York convention at Poughkeepsie. Like the conventions of Massachusetts, New Hampshire, and New York, it joined in proposing and demanding a bill of rights. New York, the eleventh state to ratify, took action on July 26, 1788.

North Carolina and Rhode Island took no action until after the government set up by the new constitution had begun to operate. North Carolina ratified on November 21, 1789, and Rhode Island on May 29, 1790.

As one reviews these debates both at Philadelphia and before the conventions of Massachusetts, of New York, and of Virginia, he cannot fail to be impressed with the perennial character of the problems that were under discussion. The growth and defence of liberty and the reconciliation of liberty and government have always occupied and will always occupy the mind and the effort of man. The pendulum of human endeavour swings now towards the greatest possible freedom from governmental regulation and restriction, and now towards the largest possible interference and control by government with human activity and occupation of every sort. There is, on the one hand, a thirst for liberty and, on the other hand, a fear of liberty which

are in constant conflict. If liberty be granted to all alike, the swift-footed will outrun the more sluggish, and the better endowed by nature will excel the less fortunate. As the base of public authority broadens, the more sluggish outnumber the swift-footed, and the less fortunate outnumber those well endowed by nature. So soon as heads are counted and not weighed, liberty is in danger by reason of its very excellence. Only a highly instructed and a well self-disciplined people can bear the strain of democracy and distinguish that form of democracy which is true from the many competing and illusory forms that are false. The constitution of the United States was a sincere and highly practical endeavour to reconcile government with liberty under the conditions which prevailed at the time of its adoption and ratification.

Had that constitution gone largely into matters of detail it would have passed with the generation which saw its birth. By confining itself for the most part to fundamental principles simply and clearly stated, it offered a framework that would fit and has fitted many very different and rapidly changing circumstances and conditions. Those who disbelieve in principles as a result of human insight and human experience see no distinction between a constitution and an ordinary statute. Each is for them the mere temporary formulation of an expression of the public will or the public desire in re-

gard to some passing interest. Those, on the other hand, who believe that the human race makes progress, that it makes progress through experience, that by reflection and analysis it learns from experience certain guiding principles and rules of conduct and public administration that are wise and good, see in a written constitution which strictly confines itself to such material both a record of large and helpful experience and a sign-post to the path of progress. Whenever the makers of a written constitution yield to the temptation to include in its provisions what is mere ordinary legislation, they themselves tend to break down the distinction between constitution and statute, and to bring constitutions into disrepute. The constitution of the United States in its original form was as free from this confusion as any document in the history of government.

The debates in the state conventions called to ratify the constitution and the insistence of so many of those conventions upon the incorporation in the constitution of a bill of rights, reflected the widespread fear that those liberties which had been won by long generations of effort in England and in the colonies might be put in jeopardy by the central national government which the constitution called into being. It was said in reply to these fears that a bill of rights would be superfluous, since it was to be assumed that the new government being one of

limited and defined powers, the people who had made it retained for themselves full civil and political liberty. To this came quickly the answer that it was not wise to take so much for granted, and that no harm could come from giving explicit expression in the constitution to those reservations and prohibitions upon government which, by universal acknowledgment, the people who made the government had in mind. It was in deference to this view that Madison, as early as June 8, 1789, brought before the House of Representatives the question of proposing amendments to the constitution, chiefly in the form of a bill of rights. The discussion which followed showed little opposition to this proposal, but there were various endeavours to amend the newly adopted constitution in other particulars at the same time.

After a few weeks of debate twelve proposed amendments were submitted by the Congress on September 25 to the several states, and oddly enough were ordered to be sent also to the executives of the states of Rhode Island and North Carolina, which had not ratified the constitution. Of the twelve amendments so submitted, ten were quickly ratified and became a part of the constitution of the United States. In examining and describing the underlying principles of the constitution these ten amendments are always to be treated as part of the original document.

Those legalistically minded persons who read the constitution to discover whereabouts it places sovereignty are not able to agree among themselves. Some express the opinion, which was shared by so cautious a thinker as Madison, and affirmed by the United States Supreme Court as early as 1792,[1] that sovereignty is divided between the national government and the state governments. Others, more logical and severe in their reasoning, take the position which John C. Calhoun of South Carolina afterwards stated with all the force of his powerful mind, that sovereignty cannot be divided. Calhoun held that it rested with the several states of which the United States is composed, each state being sovereign in its own right. It is, however, quite vain to search the constitution for sovereignty, in the proper sense of that term, whether divided or undivided, since sovereignty is not there. The preamble, the method of amendment proposed in

[1] 2 Dallas: 434 (1793). That this confusing view still persists is made evident by the language of the opinion of the United States Supreme Court in the case of United States *v.* Lanza, decided December 11, 1922. In that decision the court says:

"We have here two sovereignties, deriving power from different sources, capable of dealing with the same subject-matter within the same territory. Each may, without interference by the other, enact laws to secure prohibition, with the limitation that no legislation can give validity to acts prohibited by the amendment. Each government in determining what shall be an offence against its peace and dignity is exercising its own sovereignty, not that of the other." (43 Supreme Court Reporter 141.)

It would seem clearer and more accurate to describe the "two sovereignties" as two distinct agencies or instruments of sovereignty, each exercising within its own sphere separate and duly delegated authority.

Article V, and the bill of rights set forth in the first ten amendments, and particularly the provisions of the Tenth Amendment itself, combine to make it plain that the constitution places sovereignty nowhere, for the good and sufficient reason that the people of the United States retained it in their own hands. This is a proposition not always easy for a Briton or a citizen of one of the nations of Continental Europe fully to understand. The people of Great Britain have by their accepted constitution placed their sovereignty in the hands of Parliament. There is no power save revolution to enforce Magna Carta or the Petition of Right or the Bill of Rights, if Parliament chooses to override these or to depart from them. The government of the United States, however, is in no sense the bearer of sovereignty. It is an organisation, carefully divided into three parts, and confined to the powers and duties expressly set forth in the constitution, or such as are necessarily bound up with them. These facts alone mark how great was the departure from earlier forms of government taken by the people of the United States in the years 1787–1790. They looked upon their government as a depositary of definite powers, and in no sense as a creator of civil or political rights. Much of subsequent American history is only to be understood and interpreted as the working out in practice of this controlling principle. The people of the

United States in making their constitution attempted to reconcile government and liberty by defining the sphere of liberty and by denying to government any authority to enter that sphere.

It was the clear mind of Justice Story[1] which detected the double use of the term sovereignty which made so much trouble and which explains the position taken by the United States Supreme Court. The term sovereignty in its largest sense, as Story points out, means supreme, absolute, uncontrolled power, the absolute right to govern. Plainly this is something which is not and cannot be divided. In a more limited sense the term sovereignty is used to designate such political powers as in the actual organisation of a particular state or nation are to be exclusively exercised by designated public functionaries without the control of any superior authority. Both Madison and the United States Supreme Court were undoubtedly using the word sovereignty in this secondary or limited sense when they held that it could be and was divided. It would be accurate and more convincing to say not that sovereignty is divided between the nation and the states, but that the sovereign power, namely, the people of the United States, had divided its delegated authority between national and state organisations of government. The two uses of the

[1] Story, Joseph, *Commentaries on the Constitution of the United States* (Boston, 1873), vol. I, pp. 144–145.

term sovereignty have not only clouded much political thinking in America but they have powerfully affected the course of American political history.

The constitution, moreover, set up a federal form of government, and not one that was either centralised or imperial. A democratic empire, with rigid and uniform administration and legislation throughout all its parts, is quite as possible as a democratic federal republic; the people of the United States chose the latter. By the use of the federal principle it is possible for a definite type of political organisation and civil society to be extended over a wide area with sufficient flexibility and elasticity to enable it to meet the needs of people of different race origin, of diverse economic interests, dwelling in markedly contrasted climates. The federal principle, which the United States Supreme Court later defined to be the indestructible union of indestructible states, enables Maine and California, Montana and Alabama, Virginia and Colorado to be held together in one national allegiance, while retaining the right to manage and direct their local concerns each in its own way. The city-states of Greece, noteworthy and always interesting, failed to extend their form of government over any considerable territory because they did not make use of the federal principle, aiming rather to secure absolute uniformity of governmental control and administration wherever their jurisdiction might extend. The Roman Em-

pire made an ingenious use of one form of the federal principle, but it fell for reasons of a quite different character. Had the attempt been made wholly to unify and to centralise the government of the United States, it is not unreasonable to suppose that the nation would long ago have broken into several parts through the sheer brittleness and inelasticity of its sustaining structure. American political doctrine involves the maintenance of the federal principle. That in turn involves the maintenance of the states in their full political responsibility and authority. If the federal principle be destroyed in the United States, or seriously departed from, a new and very different form of government will quickly be substituted for that of the constitution. The possibility of that unity which gives life more abundantly without that uniformity which brings social and political coma and death, depends upon the maintenance of the federal principle.

The division of powers provided for in the constitution is equally fundamental although less original. It had abundant English precedent, and the experience of the colonies had made it familiar. When the constitution was made the influence of Montesquieu was probably at its height, and his insistence upon the separation of the powers of government into legislative, executive, and judicial was accepted by the people of the United States. Montesquieu was doubtless commending to his French readers

what he understood to be the essential principles of the British constitution, which he so greatly admired, although, as Bagehot points out, he did this at a time when the growth of the power of the cabinet in Great Britain was bringing the executive and the legislative powers into the closest sort of unity. Under the American constitution the distribution of governmental powers is in theory complete.

A strong executive may bend a legislative majority to his will and often has done so. On the other hand, a legislative majority has time and again hampered and impeded the executive in the discharge of his own proper functions. On one occasion at least it has impeached the president of high crimes and misdemeanours. Had the impeachment of President Andrew Johnson resulted in his conviction, the signal would have been given for the future subjection of the executive to the will of the legislature. The independence of the judicial department of the government, despite its great authority and power, rests upon a fragile foundation. The legislative power may, if it so chooses, make effective exercise of the judicial power almost impossible by various acts, which in form at least are within the competence of the Congress.

Finally and following directly upon the nature of a written constitution, with a reserved area of civil liberty and a government of definitely prescribed

powers, there is the principle of judicial interpretation of the constitution and judicial protection of private rights even as against the agencies of government. Granting all that may be said for the other fundamental principles of the constitution, this provision marks the greatest advance in free government and is the most characteristic contribution of the people of the United States to the science and art of politics. By the constitution the judicial department of the government is made defender of the people's fundamental principles, their controlling ideals, and their continuing purpose. The Supreme Court of the United States brings, and justly brings, to the test fixed by these any and every legislative act that may be challenged. Without this power in the judicial branch of the government there would be no real limitation upon the grant of executive or legislative power, and the constitution itself would be a mere scrap of paper.

The provisions of the constitution, Article III, are entirely clear upon this point. If a citizen feels that the rights reserved to him under the constitution have been invaded by an exercise of the legislative power, his only remedy is to bring an action to test the validity of that exercise of power. The sole protection which can be given him is a judicial decision setting aside this legislative act as overstepping the limitations put upon the legislature by the constitution, if that fact be established by evi-

dence and argument. This is not, as some have said, to subordinate the legislature to the judiciary; it is merely to subordinate both to the will of the people as expressed in the constitution. It must never be forgotten that the executive, the legislative, and judicial departments of the government all alike spring from the people's will and rest upon it, and all alike exercise in co-ordinate fashion the powers which the people have intrusted to them. No one of these departments of government is or can be superior to the others. One of Hamilton's most powerful contributions to the underlying philosophy of the constitution is his argument concerning the significance and powers of the judicial department of the government in *The Federalist*.[1] It is a crowning service of the constitution of the United States that it provides a way to require even government itself to do justice to the individual citizen.

The constitution was made for 3,000,000 of fairly homogeneous people living along the Atlantic seaboard. It has served, with such changes as shall later be described, to make possible and to accompany the development of this population into a people who number more than 100,000,000, drawn from a large variety of races and nations, who spread from the Atlantic to the Pacific, and from the bound-

[1] *The Federalist:* a commentary on the Constitution of the United States, by Alexander Hamilton, James Madison, and John Jay, edited by Paul Leicester Ford (New York, 1898), nos. 78–82, pp. 517–554.

ary of Canada to the Rio Grande and the Gulf of Mexico. Were its principles not essentially sound any such happening would have been quite impossible. This constitution is now called upon to bear the strain put upon it by a new and very different set of circumstances. Commercial, industrial, and economic changes that are nothing short of revolutionary have taken place peaceably in the life of all modern peoples, and by no means least in the life of the people of the United States. The next hundred years will determine whether the work of the founders will endure, and whether the noble system of civil and political liberty built upon that work will be made increasingly secure and beneficent, or whether that work will give way for another series of experiments with a new adventure on the uncharted sea of political opportunism. Lord Acton once reminded us that liberty is an idea of which there are 200 definitions, and that this wealth of interpretation has caused more bloodshed than anything except theology.[1] This sentence surely gives us pause, as must the warning of Lowell that there is no trick of perpetual motion in politics any more than in mechanics.[2] Wisdom is a process and not a fixed state. It must learn and it must forget. It must not be aimless or inconsequent. It can do no better than to affirm from generation to generation

[1] Acton, Lord, *Lectures on Modern History* (London, 1906), p. 12.
[2] Lowell, James Russell, *Prose Works* (Boston, 1890), vol. VI, p. 20.

the warning of the first philosopher of the Christian faith: "Prove all things; hold fast that which is good." A constitution, however excellent, is something to be worked, not worshipped.

IV

SPOKESMAN OF THE DEMOCRATIC SPIRIT

THOMAS JEFFERSON

Delivered at the University of Liverpool, May 31, 1923

SPOKESMAN OF THE DEMOCRATIC SPIRIT

THOMAS JEFFERSON

Bearing in mind the dissensions and debates that preceded and accompanied the adoption and ratification of the constitution of the United States, it was in the nature of things that the citizens of the new nation should divide into parties so soon as its government was established. The basis for this division had been laid in the struggle over the constitution itself. Federalists and anti-Federalists had already come into being as opposing groups. The Federalists had the advantage of the generous and statesmanlike vision of Hamilton, together with the sympathy of Washington and the earnest support of John Adams and a notable group of intellectual leaders throughout the country. The anti-Federalists were numerous but scattered and unorganised. They were soon destined to find a leader in the most consummate and powerful politician that has appeared in the whole history of the United States. This man was Thomas Jefferson, who was born in 1743 in Albemarle County, Virginia, in the foot-hills of the Blue Ridge. By descent through his father's line Jefferson's ancestry was Welsh, while his mother's blood traced far back

in Scottish history to the Earl of Murray. It may be of some significance that the Randolph family, to which Jefferson's mother belonged, gave to American history not only Jefferson himself but Edmund Randolph, Washington's first attorney-general and Jefferson's successor as secretary of state; John Marshall, the great chief justice; and Robert E. Lee, whose chivalrous figure became both beloved and famous during the armed contest between the states. Jefferson was a curious and elusive compound of philosopher and political manipulator, of statesman and demagogue, of one with a firm grasp on fundamental political principles and of one of wavering and inconsequence in their application. He was now to succeed Washington in the foremost place upon the stage of public affairs and to hold that place until his death.

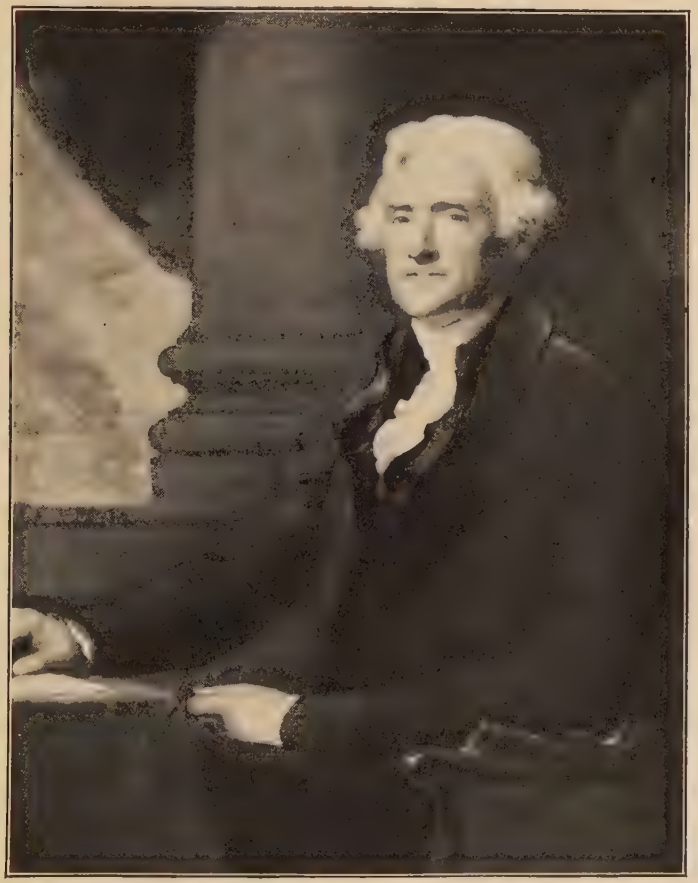
It is not easy for the Briton, or indeed for any European, to follow with understanding the development of political parties in the United States and the distinctions between them. A reason for this may be found in the fact that the divisions of political opinion which have existed and now exist in the United States are very dissimilar to those which have so long been familiar in the political history of Europe. There is not now in the United States, and there never has been, a group sufficiently large to form a party, holding the opinions that are known in Europe as Tory, Conservative, or Junker. All

American political divisions take their rise within that body of opinion which is known in Europe as Liberal, and relate to the interpretation of liberal doctrine under the forms of the constitution, or to the application of liberal doctrine to a particular set of political, social, or economic circumstances. These facts make it quite impossible to assimilate American political party distinctions to those of Europe, and account for the confusion of mind which ensues whenever such assimilation is attempted. They also explain the folly of attempting to designate leaders or expounders of American political thought by terms that have a strictly European connotation.

The party division which was now to arise in the United States was based in part upon the distinction between Federalist and anti-Federalist, but in part it harked back to something much deeper and much more permanent. Far back in the history of the Roman Republic arose the conflict between the Patricians and the Plebeians, who were the forerunners respectively of the classes and the masses of modern political nomenclature. The psychological basis of this distinction is even more important than the economic. It is always the sound instinct of the so-called classes to favour a government strong enough to maintain order and to protect liberty to the full, including that attribute of liberty which is property. Similarly it is

the equally sound instinct of the so-called masses to oppose the formation of any government that might shelter and protect privilege, or that might use its powers for the restriction and oppression of the great body of the people. Both instincts are natural and defensible. Here we come upon the everlasting antinomy of democracy; probably the history of free governments for the next thousand years will turn upon this antinomy and possible ways of escaping it.

Thomas Jefferson saw clearly the natural basis for the division of men into parties, and from early manhood both his instinct and his convictions led him to range himself on the popular side, and to expound a philosophy of government which was democratic to the core. Jefferson's own personal experience in public life strengthened these convictions and intensified his natural sympathies. In the legislative bodies of Virginia he became aware of the clash of interest between the well-to-do planter on the one hand, with his broad acres and his almost patriarchal establishment, and the frontier settler on the other, with his small clearing and his narrow resources. As fate would have it, during the years from 1784 to 1789, when the need of a strong central government was being forced upon the American people by events of every-day occurrence, Jefferson was in France watching with acute interest and sympathy the fall of the old régime and



THOMAS JEFFERSON

1743–1826

From a painting by Gilbert Stuart

the beginnings of the revolution. He was always a bitter critic of the British people and their government, and was in fact the chief originator of that violent and unreasoning antipathy to Great Britain which, even when strengthened by some unfortunate or provocative act of a British Government, has been an unlovely characteristic of quite too much American thought and expression. An American may ardently love his own country and its institutions without constant indulgence in unkind and ungenerous reflections upon the government and character of that people with whom his own stands in close and interdependent relationship. Jefferson returned, therefore, strengthened in his natural political convictions and ready to do battle with any leader or group that might show signs of sympathy for Great Britain or of admiration for the British constitution.

When Jefferson took his place in the first cabinet of President Washington, he came face to face with Hamilton, and it required no prophet to foretell that a clash of personalities and policies was imminent. For a time their relations were outwardly friendly although never cordial, much less intimate. Within three years the smouldering fires had burst into flame, and the country was quickly divided into followers of Hamilton and followers of Jefferson. It would hardly do for the opponents of Hamilton to continue to call themselves anti-Federalists, since

the new government was an established fact and could not be undone. Charging, therefore, as they frequently did, that the Federalists were really monarchists or monocrats, they assumed in opposition the name of Republican, as indicative of that alternative to monarchy upon which they insisted. Their professed fear of monarchy or monocracy was ludicrous, but its emphatic reiteration influenced a sufficient number of persons to result in bringing over to the Republican party of that day not a few who had previously been Federalists, in the sense of supporting the constitution and urging its adoption. Since no Americans were really monarchists or monocrats, the term Republican was not at that time either distinctive or satisfactory as a party name. Quite naturally, therefore, it gave way, first, to the name Democrat-Republican, and finally to the name Democrat, which has since been in uninterrupted use. In those days the word democracy was not so glibly used as it came to be later. The term had come early into the languages of Europe through translations of Aristotle, and it was used more frequently to designate a philosophy of society or government than to describe any governmental form. While the nation was still in its cradle, democratic societies were organised throughout the country and gave rise to no little agitation and concern. Shortly after his second term of office began, Washington described these societies as

Instituted by the artful and designing members . . . primarily to sow the seeds of jealousy and distrust among the people of the government, by destroying all confidence in the administration of it, and that these doctrines have been budding and blowing ever since, is not new to any one, who is acquainted with the character of their leaders, and has been attentive to their manœuvres.[1]

Genêt, the minister of France, whose troublesome machinations in the country to which he was accredited were manifold, was held responsible for the organisation of these societies. They, their remnants and their influence, were ready to Jefferson's hand when his hour struck.

Not much headway could be made in opposition during those earliest years of Washington's presidency when Hamilton was completing his task of nation-building by creating a sound and permanent financial system for the country, and by taking steps to give it economic as well as political independence. Hamilton's truly great reports on the public credit, on manufactures, and on a national banking system passed quite over Jefferson's head. He could not follow and he was unwilling to admire. His criticisms, always vigorous, were frequently puerile. His administrative knowledge and capacity bore no relation whatever to his philosophic insight and power of persuasive exposition.

[1] *The Writings of George Washington*, edited by Worthington C. Ford (New York, 1889–1893), vol. XII, p. 454.

In the very first Congress Madison passed over from the Federalist to the anti-Federalist position, and in attacking Hamilton's plan for the assumption of the state debts as a necessary step in nation-building, made himself a leader of what was already becoming the Republican party. The debate on the funding and assumption bill consolidated the opposition to Federalist policy, and while this opposition had a more definite programme than heretofore, it was, in all essentials, still a programme of negation. Quickly a new element of discord was introduced when the lower house of the legislature of Virginia presumed to declare the assumption act unconstitutional. Here was a new problem: Could it be admitted as a principle in the new political system that a state legislature had power to declare unconstitutional an act of the Congress? Hamilton, on hearing of this act, properly said that it was the symptom of a spirit which must either be killed or it would kill the constitution itself.

The next step in hastening the development of the party system and in consolidating the opposition was taken when the Quakers of Philadelphia and the Pennsylvania Association for the Abolition of Slavery asked the Congress to abolish the slave traffic. This was not a very practical request to make, since the constitution expressly denied to the Congress any power of prohibiting, earlier than the year 1808, the migration or importation of such persons as any

of the states existing at the time of its adoption should think proper to admit. In this way the question of slavery was injected into practical politics at the very beginning of the new government's existence, although every attempt had been made to adopt a satisfactory compromise concerning it when the constitution was under consideration. In its original form the question of slavery was purely social and ethical and had no regional reference. Later on climatic and economic, and to some extent also political, considerations led the Southern States to become the defenders of the slave system, although Jefferson himself and many other leaders of opinion in those states were opposed to it.

An interesting legal question arose from the fact that in 1772, while the colonies were still under British sovereignty, the law of England on the subject of slavery was definitively settled. This was done by Lord Mansfield in the Somerset case, where in granting a motion for a writ of habeas corpus he used the following language:

> The power of a master over his slave has been extremely different, in different countries. The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political; but only positive law, which preserves its force long after the reasons, occasion, and time itself from whence it was created, is erased from memory: It's so odious, that nothing can be suffered to support it, but positive law. Whatever inconveniences, therefore, may follow from a decision,

I cannot say this case is allowed or approved by the law of England; and therefore the black must be discharged.[1]

This decision made slavery illegal in England. Earlier than this, African slavery had been introduced into all the American colonies, and English slave-traders had been very active. Before the bearing of Lord Mansfield's decision on the existence of slavery in the colonies could be considered and settled, the revolution took place, and its successful issue left slavery as one of the accepted institutions of the United States.

It is probably true that at the time of the Declaration of Independence slavery was regarded with disfavour by a large majority of the leading men of all sections of the country. It stood in glaring contradiction to the principles upon which the colonies rested in waging their war against England, and they were frank to see and to say that it was so. Massachusetts had written in its first state constitution, adopted in 1780, a declaration of rights, of which the first article read:

All men are born free and equal, and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.[2]

[1] *Reports of Cases adjudged in the Court of King's Bench from Easter Term* 12, *George III, to Michaelmas* 14, *George III* (London, 1776), p. 19.

[2] *The Federal and State Constitutions, Colonial Charters and other Organic Laws,* edited by Francis Newton Thorpe (Washington, 1909), vol. III, p. 889.

Three years later the supreme court of Massachusetts held that this meant the abolition of all forms of slavery and involuntary servitude in that state. In the same year that Massachusetts adopted this declaration of rights, Pennsylvania adopted a system of gradual emancipation and prohibited the importation of slaves. Connecticut, Rhode Island, and New Hampshire took action similar to that of Pennsylvania, while between 1780 and 1784 New York, New Jersey, Delaware, Maryland, and Virginia prohibited any farther slave importations. If Jefferson's recommendations, made in 1784, for the government of the western territory ceded or to be ceded by individual states to the United States, had been adopted, slavery would have been excluded from every foot of that territory from and after the year 1800; for among these recommendations Jefferson included one framed in almost the precise language of the Thirteenth Amendment to the constitution of the United States, whereby slavery was abolished, but which was not adopted until 1865, following a civil war of unparalleled magnitude and bitterness. Had this recommendation by Jefferson been accepted, the spread of slavery would have been effectively stopped, and that institution would have disappeared from lack of nourishment within one or two generations. It is not always recalled that this recommendation by Jefferson included the territory afterwards organised into the states of Tennessee,

Alabama, Mississippi, Arkansas, as well as the greater part of what became Louisiana and Texas. All of these states were afterwards admitted to the Union as slave states.

Three years later when the ordinance for the government of so much of that territory as lay northwest of the Ohio River was adopted, slavery was excluded at once and forever from the whole of the vast territory which it covered. Therefore, the situation when the question of slavery was precipitated in the First Congress was that it existed in every state but Massachusetts; that it was being gradually abolished in the other New England states and in Pennsylvania; that new importations of slaves were prohibited in all states except North Carolina, South Carolina, and Georgia; and that while slavery might be established throughout the territory south of the Ohio, it was absolutely prohibited north of that river.

The Congress accepted against objection the petitions from Pennsylvania, and referred them to a committee for examination and report. On the report of the committee there ensued a fierce debate, and finally by a vote of 29 to 25 on March 23, 1790, the Congress accepted the report of the committee, with certain amendments, and ordered it entered on the journal. The substance of the report was that the general government was expressly restrained from prohibiting the importation of slaves until

1808; that the Congress was equally restrained in the emancipation of slaves in any of the said states; that Congress had no authority to interfere in the internal regulations of particular states relative to slaves; that nevertheless Congress had authority to lay at any time a tax not exceeding ten dollars for each person who might be imported or admitted into any state; that Congress had authority to interdict the African slave-trade and to make provision for the humane treatment of slaves when under the care of citizens of the United States on their passage to the United States or to foreign ports; that Congress had authority to prohibit foreigners from fitting out vessels in any port of the United States for transferring persons from Africa to any foreign port; and finally that the petitioners should be informed that so far as the authority of Congress extends, that authority would be exercised for the humane objects of the petitioners. From the point of view of the petitioners this report was a *non possumus*, and it is difficult to understand why so many as twenty-five representatives should have voted against it.

A significant outcome of this debate and action was to furnish the opposition with a new rallying point and to give to the question of slavery an important and hitherto unsuspected influence on the theory of constitutional interpretation. The only way in which the opposition could permanently de-

fend slavery in some states from the rising tide of public opinion against it in most states, was to take the position that the government of the United States was denied every power not expressly granted to it by the constitution. The Federalists, who were broad or liberal constructionists of the constitution, found themselves, therefore, face to face with an opposition that was, true to the teachings of Jefferson, a party of strict or narrow constructionists, and, despite the principles of Jefferson and his personal views, also a party of defenders of slavery. The lines were swiftly drawn, and while slavery did not become the dominant issue for some time, it was now to be always in the background, and not far in the background, after the debate in the First Congress over the Pennsylvania petitions.

A quick manifestation of the new party alignment was made when Hamilton proposed to have the general government occupy the ground of indirect taxation. He knew that indirect taxes were easier to collect than any other, and that a government deriving its support from them would not necessarily be compelled to live from hand to mouth as might one drawing its revenues solely from direct taxes. Therefore, in addition to his bill levying import duties, he proposed a measure for laying a general excise tax by the United States Government. No constitutional question was or could be involved. The decision to be made rested

solely on grounds of economic policy. The opposition, however, quickly turned the debate into political channels. This move was so successful that the proposal for a general excise tax was defeated. Hamilton, nothing daunted, then proposed an excise tax on spiritous liquors, which he felt could not be successfully opposed. This measure became a law. At once there was friction and even open insurrection. Washington expressed the opinion that the so-called Whiskey Rebellion, which took place in the western part of the state of Pennsylvania, was due to the activity of the Democratic societies.[1] However that may be, the rebellion was for a time serious and menacing.

Another influence that was effective in uniting the opposition to the Federalist party had its origin in the foreign relations of the United States. At this moment the French Revolution was the dominating fact in the whole world. Not only was the revolution affecting European governments and their policies, but its influence was reaching across the Atlantic. There was natural sympathy in the United States for the fundamental principles of the revolution and there was also the sentiment of gratitude growing out of the helpful part taken by the armed forces of France in enabling the colonists to win their war of independence. During the

[1] *The Writings of George Washington*, edited by Worthington C. Ford, 12 vols. (New York, 1889–1893), vol. XII, p. 486.

early stages of the French Revolution, American sympathy with it was substantially complete. The general course of action taken by the convention of 1789 and the constitutional monarchy which was set up in 1791 were approved in the United States, and the conflict between France and Austria, which the latter country provoked in 1792, found the Americans eagerly supporting the new order in France. A little later, however, when the revolution entered upon its radical and destructive phases, culminating in the dethronement and execution of the king and in the mad excesses of the Paris mob, the enthusiasm of the members of the Federalist party rapidly cooled and its leaders looked first with disapproval and then with abhorrence on the acts of the convention, the commune, and the mob. The states of mind through which Burke passed in England were substantially the states of mind through which the Federalists passed in the United States. The attitude of the anti-Federalists, however, was quite different. They looked upon the entire revolutionary programme as laudable and necessary steps, even if harsh, in the establishment of liberty. They charged the Federalists with holding monarchical sentiments because they refused to applaud the deeds of violence which followed each other with such great rapidity in Paris. In particular, the anti-Federalists accused their opponents of espousing the cause of their old oppressor, England,

since England, after the declaration of war by France in 1793 on all monarchic institutions, had taken up arms against her.

It was about this time that the anti-Federalists began to call themselves Republicans in contradistinction to the Federalists whom they charged with being at heart monarchists. Passion ran very high, and agitation was so wide-spread and so intense that, as has already been remarked, its effects reached the person of Washington himself and led to violent and unrestrained attacks upon him. Probably conditions would have become even worse had not the French minister, Genêt, blundered so seriously that his cause and that of his fellow partisans was damaged, and their attempt to drive the United States into a war with England was frustrated.

It was in these ways and through these happenings that the Republican party was consolidated and became, with Jefferson at its head, a very powerful influence in the United States. Its victory over the Federalists and its accession to power were hastened by the blunders of the Federalists during the presidency of John Adams. Whatever may have been the services of John Adams to his country and his personal excellences, he was a lamentable failure as a party leader. In a biting passage contained in a letter written in 1875 to Whitelaw Reid by James G. Blaine of Maine, the responsibility of

John Adams for the fall of the Federalist party is described in these words:

> No Adams ever yet headed a party without taking the life out of it. Old John—in many respects the best of them—took the Federal party in 1796 when it had the talent, the character, the culture, the wealth and the patriotic traditions and prejudices of the country all largely in its favour, and in four years he so entirely destroyed it that it never reappeared except as a ghost wherewith to frighten two succeeding generations of statesmen. A large part of the quarter century that he lived after he retired from the Presidency, was spent in querulous efforts to throw the responsibility of his failures on the friends of Hamilton and the eleven other contrary jurymen.[1]

Already at the opening of the Fourth Congress in December, 1795, the Republicans controlled a majority of the House of Representatives, and the Federalists barely held the balance of power in the Senate. It was only by a majority of three electoral votes that John Adams was chosen president in 1796, in succession to Washington, thus postponing for four years the political change that was plainly coming. The Alien and Sedition Laws, passed during the summer of 1798, made farther postponement of this change impossible and quickly brought the Federalist party to ruin. The purpose of these laws was declared to be to strengthen the government against its enemies, both foreign and domestic. These laws were urged for the same reasons that

[1] Royal Cortissoz, *Life of Whitelaw Reid*, 2 vols. (New York, 1921), vol. I, pp. 331–332.

similar measures are so often urged in time of political agitation and excitement. Whatever be their justification in time of war, when the lives of men and indeed the life of the country itself, may be at stake, such proposals always require most anxious examination in times of peace. It is very easy to regard differences of opinion as seditious, and it is never a difficult matter to visit upon the head of the resident alien responsibility for troubles that have a quite different origin. These laws were bitterly contested and were assailed as restricting freedom of speech, as wholly unnecessary and unconstitutional, and as indefensible from every point of view. They put great powers in the hands of the president, and they made drastic provision for any one convicted of sedition under their terms. The Federalists defended these laws as necessary war measures, while the Republicans denounced them as arbitrary and unconstitutional. On the issue thus raised large numbers of Federalists deserted their party, and the result was to draw yet more sharply the line of distinction between the two groups in respect to the matter of constitutional authority and interpretation. The Federalists were confirmed in their theory of a broad and liberal construction of the constitution, while the Republicans were strengthened in their doctrine that a narrow and strict construction should be placed upon its terms.

The Republican counterblast was not long in coming. Following a conference held at Monticello, Jefferson drafted certain declaratory resolutions for adoption by the Kentucky legislature, and Madison drafted similar resolutions for adoption by the Virginia legislature.[1] Both legislatures took favourable action upon these resolutions during the months of November and December, 1798, and formally advised the legislatures of the other states of what they had done. It is astonishing to what lengths the Kentucky and Virginia resolutions go in their doctrine of constitutional interpretation. They illustrate how far the pendulum had swung in ten short years away from universal acceptance of the underlying principles of the constitutional convention at Philadelphia. These resolutions expressly defined the federal union as a compact and declared that the two parties to the compact, namely, the states and the nation, have equal right to judge for themselves as to when there is an infraction of the compact and as to how redress may be had.

The Madison who wrote the Virginia resolutions of 1798 was a very different person from the Madison who sat in the Philadelphia convention and who fought so vigorously in the state convention of Virginia for the ratification of the constitution of the

[1] For the full text of these resolutions, see Preston, Howard W., *Documents Illustrative of American History*, 1606–1863 (New York, 1886), pp. 284–295.

United States. It is sufficient to say that in these resolutions, coming as they did from the influential hands of Jefferson and Madison, authority may be found—despite the later disavowals of Madison and the friends of Jefferson[1]—for the doctrine of the right of peaceable secession from the Union, for the doctrine of the right of a state to nullify an act of the Congress of the United States, and for the right to take whatever measures might be necessary to enforce these views. The whole struggle which broke into war with the firing on Fort Sumter in 1861 and which came to a climax at Appomattox in 1865 is foreshadowed by these resolutions from the pen of the two men who were shortly to serve for eight years each as third and fourth presidents of the United States. No stronger evidence could be had of the inevitableness of the armed conflict that was to follow.

It is unfortunate for the fame of Thomas Jefferson that the political party with which his name and personality are associated should have vigorously upheld the doctrine of slavery, to which he was opposed, and the doctrines of secession and nullification which, if carried to their logical conclusion, would have made impossible the effective carrying out of his political philosophy. As a matter of fact the teachings of Thomas Jefferson were less neces-

[1] Benton, Thomas H., *Thirty Years' View*, 1820–1850 (New York, 1854), vol. I, pp. 148–149; 347–360.

sary during his lifetime than they are now. The government of the United States was then building in the face of every conceivable form of opposition and of almost incredible difficulties. That which was least in danger then was the civil and political liberty which Jefferson made it the business of his life to expound and to defend. With the single exception of the Alien and Sedition Laws, no measures were seriously proposed that in any wise contradicted what are known as Jeffersonian principles. This, unfortunately, is true no longer. For reasons that will appear in the sequel, the teachings of Jefferson need reaffirmation now far more than they needed affirmation then. Government, whether national, state, or local, has entered upon an incredible number of activities which Jefferson would never have permitted, and which, however beneficent their immediate and temporary results, strike at the very root of national character and of those continuing forms of liberty upon the protection of which the progress of mankind must depend. If democracy be nothing more than a form of government, it is already a dismal and a costly failure; if, on the other hand, democracy be a social, an economic, and a political system and point of view, then surely it is the only hope of mankind. The principles which Jefferson so insistently urged, which he so constantly wrote into constitutions and statutes, and which he so clearly expounded in a voluminous

correspondence with men of influence and authority, are sound principles. Democratic society will grow weaker, not stronger, as it departs from them.

The contradictions in Jefferson's career are many and confusing. He is said to have been a physical coward, and this fact might explain much. He certainly was far more effective in counsel and in leadership of opinion than in the task of administration. No American can compare with Jefferson in the measure of influence wielded over public opinion, and yet the history of his administrative acts is often anything but complimentary. A sympathetic biographer has pointed out that Jefferson's patronage of a group of hack libellers, to say nothing of the half-rebellious democratic societies made up chiefly of the mobs of the large cities against whom he himself had argued so strongly, and the moonshiners of the mountains, can only be accounted for as due to lack of certain moral qualities that are innate in most men.[1] Jefferson may be said to have done what lay in his power to conceal from later generations the real character of his service to the people of the United States. After all discussions of national authority and state sovereignty shall have been forgotten, and even after party names, still powerful, have become material for the archæologist, it will stand out that the true distinction of Thomas Jefferson is to be found in the fact that he

[1] Ford, Paul Leicester, *Thomas Jefferson* (Boston, 1904), p. 18.

sincerely believed in and persistently worked for that civil and political liberty which is freedom. Among his neighbours he certainly achieved a very genuine immortality. In the neighbourhood of Monticello it is still usual to hear Jefferson spoken of in the present tense. For these neighbours after a hundred years it is not Mr. Jefferson was, but Mr. Jefferson is; not Mr. Jefferson said, but Mr. Jefferson says. Surely eulogy could add nothing to this tribute.

With Jefferson's accession to the full power of the presidency in 1801, supported as he was by a majority in both houses of the Congress, his political triumph was complete. Then followed one of those curious changes in the history of government which prove incontestably how largely political principles are influenced by the possession of political power. Hamilton's shrewd prediction that Jefferson's character would lead him as president to pursue a temporising rather than a violent policy was quickly and entirely justified.[1] Within a few years Jefferson and his Republican successor Madison were standing on what had been Federalist ground, and the remnant of the Federalist party was opposing them with arguments which sounded not unlike the Kentucky and Virginia resolutions. Jefferson's first inaugural message was a model of pre-

[1] *The Works of Alexander Hamilton*, edited by Henry Cabot Lodge, 12 vols. (New York, 1904), vol. X, p. 413.

cise and compact political doctrine, with which it would not be easy even to-day to find fault. This document of itself brought new strength to Jefferson and farther weakened the already badly shattered Federalist party.

Then came the purchase of the Louisiana territory. This marked a decisive epoch in the history of the United States, and definitely established the doctrine that the constitution was to be broadly and not narrowly interpreted. By the Treaty of Ildefonso, made in 1800, the vast territory west of the Mississippi River, including both banks of the Mississippi at its mouth, was transferred from the dominion of Spain to that of France. This change of sovereignty was viewed with great concern by the government of the United States. The weak Spanish king had made quite enough trouble for the American traders, and it was easy to foresee what serious friction might arise were this vast realm to remain in possession of France, which, under the leadership of Bonaparte, was endeavouring to bring the entire continent of Europe in subjection. The conviction was instant and quite universal in America that unless this territory was acquired by the United States, the commerce of the Ohio and Mississippi valleys would be destroyed and a powerful military nation would develop its authority over a large area in immediate juxtaposition to the territory of the United States. Unless

the United States proposed to wage war with France over this question, there was no solution of the problem save to acquire this territory by purchase. The strict constructionist searched the constitution in vain for any express grant of power to acquire this territory by purchase from France. A treaty to that end would give to the federal government an extent and kind of authority of which Jefferson and his followers had never dreamed, while the negotiation of such a treaty might readily be defended on Federalist principles. It was, however, the Republicans who carried through the purchase of the Louisiana territory, and the Federalists who opposed it.

Hamilton, as might have been expected, favoured the Louisiana purchase on grounds of principle and national interest, but the majority of the Federalists, particularly those in the New England States, opposed the purchase for the not very creditable reason that it would decrease the relative influence of New England in the Union. Some Federalists even went so far as to declare that it would be unconstitutional for the national government to acquire this territory, or any new territory, on its own motion and without the consent of each and every state in the Union. This was not Federalist doctrine but its opposite, and yet it was the argument urged by those who still called themselves Federalists. This group did not even draw back from the logical consequences of

their newly assumed doctrine. They declared openly that dissolution of the Union would be preferable to the tyranny of the Southern States, which they felt would be made certain and secure if the Louisiana purchase was consummated. These differences and the realignment of parties, followed by the controversies growing out of the attacks on neutral commerce made both by Bonaparte and Great Britain in the course of their military struggle, not only caused the Federalists and the Republicans completely to reverse their former attitude in face of each other, but brought the Federalist party to final ruin. The principles which had been Federalist and which were now acted upon by the dominant Republican administration were sound principles in nation-building; while the principles which the Republicans had professed before gaining power and at which the Federalists now grasped in desperation were unsound principles. Had these conquered, the nation could not have been built.

It is necessary to understand that the important thing for the interpretation of the process of nation-building during this period is not party names but those principles of action which were supported first by one party and then by its victorious opponent. One result was that the same destructive spirit that was manifested in the Kentucky and Virginia resolutions of 1798 was also manifested by Massachusetts, Rhode Island, and Connecticut

in the Hartford convention of 1814. Nullification and secession, shortly to become the favourite doctrines of the South, were then openly preached in New England. The end of the second war with Great Britain and the signing of the Treaty of Peace at Ghent put an end to these discussions and opened that era of good feeling which continued until the question of slavery projected itself as the dominant political issue.

It is clear, therefore, that in order to measure the full influence of the teachings of Jefferson one must go beyond the bounds of the party which has for a century professed allegiance to his name and doctrines. While many of the specific teachings of Jefferson are narrow, provincial, and visionary, his underlying notions are sound and are generally accepted even when not acted upon, by Americans of every party and of every section. Jefferson unfortunately gave the great weight of his authority to the notion that there is something like a necessary clash of interests between the agricultural classes and the city dwellers. He wrote with contempt of the hand-worker and of the manufacturer, and he never understood the significance or the benefit of international trade.

It is a blessing that up to the present time at least, any serious or permanent division of the American people into political parties based upon antagonistic economic groups has been avoided, and that the most important political discussions have

taken place in reference to principles which divide the social organisation perpendicularly and not horizontally. There has not been as yet any permanent political division between rich and poor, between agriculturist and city dweller, or between hand-worker and farmer. Each of these groups has contributed its full share to both political parties which, for a full century, have struggled for control of the national government.

The visionary side of Jefferson is well illustrated by the practical conclusion which he attempted to draw from his doctrine that all just government rests upon the consent of the governed. Upon this principle Jefferson bases the curious conclusion that since the earth belongs in usufruct to the living, and the dead have neither powers nor rights over it, no generation of men may justly pass any law to be effective for a period longer than the lifetime of that generation. By using the statistical tables prepared by Buffon, Jefferson proves to his satisfaction that half of those living persons who are twenty-one years of age and upwards at any given time, will be dead in eighteen years and eight months. He therefore proposes nineteen years as the term beyond which neither the representatives of a nation, nor even the whole nation itself assembled, can validly extend a debt.[1] What Jefferson does in

[1] *Writings of Thomas Jefferson*, edited by Paul Leicester Ford, 10 vols. (New York, 1892–1899), vol. V, pp. 115–119.

this case is to make the mistake which so many lesser men have made, of confusing ideas and principles with individuals. If an idea or principle be untrue and unsound, then nineteen years is much too long a time for it to be operative; if, on the other hand, it be true and sound, how can any limit of time be put upon it? Surely the multiplication table does not grow out of date, although in Jefferson's sense it is certainly imposed upon the living by the dead. It is because of serious statements and arguments of this kind that Jefferson, with all his greatness, has furnished ground for many varieties of folly and inconsequence. Perhaps no great writer on politics and no great party leader needs to have his sayings and his acts analysed more critically than does Jefferson. It may very well be that it is just because of his enormous and continuing influence on American public opinion that this statement is as true of the American people as a whole as it is of Jefferson himself.

Perhaps if Jefferson had been asked to differentiate his political point of view and his political teaching from those of others who were his opponents and critics, he would have pointed to the fact that he was more ready to trust the people than to suspect them, and that his opponents were not. He professed, and he really had, confidence that the people as a whole would not be appealed to in vain in the cause of good government and of civil and

political liberty. With this confidence in the masses of the people went, almost as a matter of course, a fervent belief in the necessity for general education. It was not as philanthropy, but as part of a well-conceived political philosophy, that Jefferson urged the establishment of schools and provided for them, and founded the University of Virginia. He was not one of those demagogues, miscalled democrats, who cry out that ignorance is better than knowledge, that folly is superior to experience, and that man's natural instincts are so superlatively wise that discipline and wisdom can serve no good purpose. There are some types of false democracy to which Jefferson gave undoubted encouragement; there are others that he never permitted to gain foothold within the sphere of his influence.

Nothing better became Jefferson or set him in finer light than the simple inscription which he wrote to mark the place of his burial. In simplicity, in dignity, and in choice of material from so rich and so varied a life, this inscription is beyond criticism:

Here Was Buried
Thomas Jefferson
Author
Of The Declaration of
American Independence
The Statute of Virginia
For Religious Freedom And
Father of the University of Virginia

The inscription contains no reference to the distinguished political posts which Jefferson held, or to the vigorous and untiring political activity which he carried on. It is confined to the three public services which were for him his chief title to fame; no American will take issue with him or do other than hold him in grateful remembrance because of them.

It is one of the striking coincidences of American history that John Adams and Thomas Jefferson, life-long associates in the task of nation-building, sometimes party opponents but always close friends and correspondents, should have passed from earth on July 4, 1826, which day was the fiftieth anniversary of the Declaration of Independence, that the one had written and both had signed. With the passing of Adams and Jefferson the old order came to an end. The nation which they had helped to build was to be shaken to its very foundations by civil strife, and the principles for which Jefferson had contended were to be put in jeopardy for reasons which he could hardly have foreseen. Orators and leaders of opinion all over the land seized upon the coincidence and gave it interpretation. Daniel Webster, speaking at Boston, Massachusetts, in Faneuil Hall, shortly after their death, gave an admirable and eloquent summary of the services of Adams and Jefferson to their country. He spoke of Jefferson with deep respect, and rejoiced that the work of drawing what he described as the title-

deed of American liberties had fallen into his hands. Quite in the spirit of Jefferson himself Webster exclaimed:

> It cannot be denied, but by those who would dispute against the sun, that with America, and in America, a new era, commences in human affairs. This era is distinguished by Free Representative Governments, by entire religious liberty, by improved systems of national intercourse, by a newly awakened, and an unconquerable spirit of free inquiry, and by a diffusion of knowledge through the community, such as has been before altogether unknown and unheard of. America, America, our country, fellow-citizens, our own dear and native land, is inseparably connected, fast bound up, in fortune and by fate, with these great interests.—If they fall, we fall with them; if they stand, it will be because we have upholden them.[1]

[1] *Writings and Speeches of Daniel Webster*, National Edition, 18 vols. (New York, 1903), vol. I, p. 324.

V

WELDERS OF THE NATION IN LAW AND IN PUBLIC OPINION

JOHN MARSHALL, DANIEL WEBSTER, AND ANDREW JACKSON

Delivered at the University of Manchester, June 1, 1923

WELDERS OF THE NATION IN LAW AND IN PUBLIC OPINION

JOHN MARSHALL, DANIEL WEBSTER, AND ANDREW JACKSON

The history of the American colonies and the history of the early steps in their progress towards nation-building give ample and reasonable ground for those differences of opinion which quickly arose concerning the meaning and scope of the federal system which had been devised. Had there been no powerful and constant influence to intervene, it seems quite likely that the interpretation of the federal system which was finally reached through the arbitrament of civil war would have been generally accepted within a generation or two after the adoption of the constitution. Several important influences were contributing to this end. The possession by the nation of a vast area of public land that might be opened to settlement, as well as the economic development of the life of the people and the resulting pressure of the need for elaborate systems of roads and waterways, naturally tended to increase the power and multiply the activities of the national government and to invite the growing population in the newly settled parts of the country

to turn to the national capital for aid and comfort. Thirty years ago Professor Turner first called attention to the significance of the frontier in American history.[1] The American frontier, as he pointed out, is quite unlike the frontiers of Europe, which are fortified and carefully drawn boundaries between closely settled and intensively developed countries. The frontier in the United States has always been interpreted to mean the outer margin of the settled area, and it has not infrequently manifested a life and customs and developed a literature all its own. As the frontier was pushed westward and as settlements increased in size and in number, the question was raised as to whether new states should not be organised and admitted to the Union.

Conditions being what they were as to the institution of slavery, the admission of every new state raised a political question. Before very long party and sectional feeling was thoroughly aroused, and party and sectional passion ran high over the question as to whether the admission of this state or that might not disturb the balance of power between the sections or affect favourably or unfavourably the continued existence of slavery or its extension into new territory. Meanwhile the people in these new states were for the most part turning more largely to Washington for assistance and support than the

[1] See Turner, Frederick Jackson, *The Frontier in American History* (New York, Henry Holt & Co., 1920).

original states had ever been willing to do, and were thereby building up a habit of strengthening the national government, sometimes in spite of themselves. The part played by this movement in American history is by no means inconsiderable. It must be borne in mind that while thirteen states created the original Union, by 1861 when the Civil War broke out there were twenty-one states that were the creatures of that Union which the people of the original thirteen had called into existence.

It is because of slavery that the federal system established by the constitution was not able to develop freely and logically to a point where it was universally accepted opinion that the nation is an indestructible union composed of indestructible states,[1] and that the national government possesses in all the fulness of power those attributes which enable it to act for and to represent the people of the whole United States both before themselves and before the world.

The one unusual element in the population of the United States was that body of coloured men and women who were descended from the African negro. Their numerical relation to the white population was very different in different states. The earlier and very hopeful movements to abolish slavery and to restrict the slave-trade so that slavery might soon

[1] See Opinion of Chief Justice Chase in *Texas v. White* (1868), 7 Wallace, p. 725.

die a natural death, were checked when, by the discovery of the cotton-gin in 1793, Eli Whitney showed a way in which slave labour might be made exceedingly profitable to the slave-owner. It is estimated that this invention alone increased one hundred times the daily product of the labour of a single slave. Slavery then found an economic basis for its continued existence, and despite the kindness and humane treatment shown by thousands of slave-owners, the necessary horrors of slavery and the slave traffic quickly began to show themselves. When Mrs. Stowe published *Uncle Tom's Cabin* in 1852 she found a nation-wide audience ready and willing to be convinced by the story and by the appeal of that remarkable book. Had slavery been more wide-spread, and had it not been confined to a single section of the country, it might have happened that it would have been in the interest of slavery to develop a strong national government for its protection and extension. Since, however, slavery was sectional, the slave-owners and their representatives in the Congress were led to declare principles and to accept policies that were anti-national in the extreme. Both the Kentucky and Virginia resolutions of 1798 and the declarations of the Hartford convention of 1814 could be appealed to in support of these anti-nationalist doctrines. New England as well as the South had declared them, and there were many consenting individual voices in between

and all around. A very brief examination of the situation in respect of the growth of the Union through the addition of new states will show why what followed happened as it did. The progress of the process of nation-building in the United States was in great part determined for two generations by the fact that slavery was sectional, and that it had become an institution defended on the loftiest religious and moral grounds by clergy and public men alike.

There can be no peace in any system of public law or in any social organisation if a sectional custom or institution contradicts in a fundamental and far-reaching way the principles upon which that public law or that social organisation rests. The contradiction must develop sooner or later into an irrepressible conflict. In the United States, whose government and social system were built upon civil liberty, and yet included a large and prosperous section which permitted and encouraged slavery, one of three things must happen: either the system of civil liberty must wholly expel slavery from the nation, or slavery must gain such strength as to expel or gravely modify the system of civil liberty, or the two sections must separate and go each its own way. The fact that slavery could legally exist in one section of the United States and not in another is explained by the dual character of the system of government adopted and by the division of

authority between the national government on the one hand and the state governments on the other. Under this dual system if slavery was a state institution then the national government could only act concerning it in the manner authorised by the constitution and under the limitations of the constitution. So far as the states which took part in forming the Union were concerned, the Congress was strictly limited in its power to deal with slavery. But not all the territory of the United States by any means was organised under the dual system of government. There was a vast empire lying west of the Alleghanies, and another still farther west, acquired by purchase from France, which were held under the dominion of the nation as a whole and were not yet organised into local or state governments. The constitution clearly vested in the Congress the power to dispose of this territory and to make all needful rules and regulations concerning it, as well as the power to admit new states into the Union. Plainly then the Congress had exclusive control over the people of these unorganised territories, limited only by the bill of rights contained in the constitution itself. It was for the Congress to determine when and under what conditions the population of any portion of these territories might erect a local government and be admitted to the Union as a state.

Expounders of the constitution as well as party

leaders were quick to see that the Congress had power to hold slavery where it was by drawing the cordon of freedom so closely about it that it would presently die from lack of nourishment. The slave-owners and their representatives in the state and national governments saw this clearly and recognised that it was not sufficient to insist that slavery was a state institution, and that as such it could not be interfered with by the Congress. If slavery was to continue, the representatives of the slave-owning communities must keep a sufficient hold on the Congress to prevent any legislation concerning the unorganised territories which would be prejudicial to slavery. This was by no means an easy matter. The population of free states or sections increases much more rapidly than does that of slave states or sections, for the reason that a free population tends to develop varied industries, while slavery tends to concentrate itself upon some one of the more rudimentary forms of agriculture. A free state or section can support, on the same extent of territory, a much denser, a much better-educated, better-fed, and better-housed population than can a slave state or section. Therefore, a free state or section and a neighbouring slave state or section would tend to draw apart in numbers, in industrial activity, and in wealth, even if there were no immigration, but in addition a free state or section is much the more attractive to immigrants. The handwriting was,

therefore, on the wall. While the population of the United States was increasing from 4,000,000 to 10,000,000, the states north of Mason and Dixon's line gained rapidly on the states south. This fact was immediately reflected, according to the terms of the constitution, in the representation of the two sections in the House of Representatives. While in 1790 the Northern States had 57 representatives and the Southern States had 53, in 1820 the Northern States had 130 representatives while the Southern States had but 90. Even before this result was reached, the defenders of slavery saw plainly that if they were to secure the perpetuity of their institution they must gain control of some other part of the national government than the House of Representatives. They could only look to the Senate. Here the provisions of the constitution gave the slave-owning states an advantage, for each state was forever to enjoy equal representation in the Senate, no matter what might be its population or its wealth.

Since of the original thirteen states seven lay north and six south of what was to prove the dividing line between the two sections, it seemed necessary that the slave-owning states should gain and retain an equal representation in the Senate with the free states. Vermont, a free state, had been admitted to the Union in 1791, and shortly thereafter Kentucky was separated from Virginia and admitted as a slave state. The original inequality,

with its resulting advantage to the free states still remained.

It then became evident that there was to be a great struggle over the organisation of new states and the terms upon which these might be admitted to the Union. The northwest territory, lying north of the Ohio River and west of Pennsylvania, was made secure for freedom by the provisions of the ordinance of 1787. The repeal of this ordinance was not within the bounds of practical political action. Apparently, therefore, the slave-owners could only look to the territory lying west of North Carolina and Georgia and south of Kentucky, extending to the Mississippi River, which had been ceded by the adjoining states to the United States in 1792 on condition that slavery be continued within that area. Whether this condition was binding upon the Congress might well be debated, but it was held to be so, and in 1796 the slave state of Tennessee was erected from this territory and admitted to the Union, thus making the balance even. The growth of the nation went rapidly on. The admission of Ohio and Louisiana, of Indiana and Mississippi, of Illinois and Alabama, increased the total number of states to twenty-two, and left them equally divided between slave and free.

By this time the situation was clear to everybody and there was no escape from the very difficult problems which it raised. There still remained for

erection into states a part of the northwest territory and the district of Maine in the extreme northeast. States erected in these areas would of course be free states. On the other hand, of the area dedicated to slavery by the terms of the cessions made by North Carolina and Georgia, nothing remained. So far, therefore, as existing territory was concerned the slave-owners could only secure the erection of additional slave states, if at all, in that part of the Louisiana Purchase lying north of the state of Louisiana which had been admitted in 1812. This vast territory had been given a territorial government by the Congress in 1805, with its seat at St. Louis. It was called the territory of Missouri, and its population was substantially all above the point where the Ohio River, the border line of the free states lying east of the Mississippi, entered that river.

The significance for nation-building of the Missouri Compromise of 1820 and of the Kansas-Nebraska Bill of 1854 now becomes evident. The struggle for that extension of slavery which was necessary to its perpetuation was transferred to the territory lying west of the Mississippi River and yet to be organised into states. Quickly the older party divisions tended to be obscured and displaced by these newer grounds of difference, and the skein of opinion becomes a very tangled one indeed. The anti-nationalist doctrines, which had been held both

by the early Republicans and the later Federalists, gave way for nationalist teaching in the case of all those who wished the national government to be strong enough to put a stop to the spread of slavery. On the other hand, nationalist doctrines were displaced by teachings of nullification and the right of secession in the minds of those who insisted that rather than have their local institutions controlled from Washington and slavery interfered with, they would dissolve the Union. The powerful mind of John C. Calhoun of South Carolina, who is, with the single exception of Alexander Hamilton, the most searching and profound expounder of principles of government that America has produced, formulated the constitutional and legal arguments in defence of these positions. On each side there were extremists, but they seem mild indeed when compared with the extremists of 1860. The spirit of compromise was still strong. The maintenance of the Union was very dear to many who held in theory to the right of secession, as it was dear to many who were most desirous to have slavery speedily and entirely abolished. It was this spirit which led to the famous Missouri Compromise in 1820. If Missouri were admitted as a free state, the balance between slave and free would be overthrown, probably forever. The slave-owners urged the injustice of preventing immigration from the Southern States into Missouri, which they felt must

necessarily follow if slavery was forbidden in the new state. One argument after another was adduced on either side, and while the House of Representatives was ready to admit Missouri as a free state, the Senate was not. This body associated the proposed admission of Maine with that of Missouri, and practically made it a condition that Missouri be admitted as a slave state. By the terms of the action finally taken, Maine was admitted nominally without any reference to Missouri, and then Missouri was admitted with slavery permitted. In addition it was decreed that in any states to be erected from the Louisiana territory north of the line 36° 30′, which marked the southern boundary of Missouri, slavery should be prohibited. Nothing was said as to the status of slavery in the territory south of 36° 30′ which might yet be erected into states, but the plain meaning of the compromise was not to secure freedom for the northern part of the territory, since this would come naturally, but to insure slavery in that part which lay south of 36° 30′.

These facts were generally understood and admitted, and the Missouri Compromise was only a compromise in name. As we see it now it was in fact a victory for slavery and its defenders, although the spokesmen of the extreme states' rights school attacked it violently as an attempt to wrest from the new states, about to enter what they described as the American Confederacy, the power of

regulating their own concerns. It was fifteen years before another state was admitted, and it was twenty-five years before the balance was destroyed in favour of the slaveholding states by the admission of Florida. The stage was now well set for the battle royal between the anti-nationalist doctrines that were worked out and stated with remorseless logic and exceptional skill by John C. Calhoun of South Carolina and the nationalist teachings of Washington and Hamilton, which were now to be reinforced, developed, and applied by the judicial expositions of Marshall, by the executive policies of Jackson, and by the superb and moving eloquence of Webster. Truly the giants were at war.

Slavery, however, was not the only issue between the combatants, although it entered into and coloured all the others. The growing settlements beyond the Alleghanies raised in acute form the question of internal improvements, including the building of roads and waterways, and the governmental authority by which they should be made. Presidents Jefferson, Madison, and Monroe, all of whom were of the Republican or states' rights school, believed in the desirability of a national system of internal improvements, but doubted the authority of Congress to go forward with such a system unless the constitution was amended to confer this power upon the Congress in express terms. Nevertheless, one Congress after another, in which the Republican

party had a majority, had voted time and again before 1820 to make appropriations in aid of internal improvements, and no sectional opposition had manifested itself. In 1816 the Republican party had restored the national bank, earlier destroyed through party animosity. Each Republican president down to the time of Jackson was a believer in the policy of protective tariffs, and as late as 1816 Calhoun himself was a strong defender of a protective tariff on imports. These facts indicate with convincing clearness that it was the discussion which ended in the Missouri Compromise which first opened the eyes of the slave-owners to the real relation which slavery bore to the whole series of economic problems that were presenting themselves for solution. Some of their more far-seeing leaders saw that there was the closest sort of connection between slavery and a tariff policy, as well as between slavery and a national system of internal improvements. If a great system of national roads and national waterways was to be constructed, the cause of freedom would be given marked impetus by the new intercommunication and intercourse that would be made possible, and the minds of the slaves themselves might even be turned towards emancipation. From this time on, therefore, the representatives in the Congress of those states where slavery was permitted resisted all proposals for a national system of internal improvements, and advanced the doc-

trine that there was no constitutional authority for any action by the Congress in this direction. Internal improvements, they held, were matters which each state must decide for itself.

A similar happening took place in regard to the question of protective tariffs. The slave-owners came to see that their states had not developed and were not developing manufacturing industries and that, therefore, whatever benefits a protective tariff might confer would be for the free states alone. They began to take the position that the existing tariff was reducing them to poverty and that they ought not to be compelled to pay an increased price for the goods that they consumed simply that northern manufacturers and wage-workers might benefit. From this it was but a short step to a denial of the constitutional authority of the Congress to levy any protective tariffs whatsoever.

These questions split into two parts the party which had been not only dominant but almost unchallenged since the downfall of the Federalists. Its members became either National Republicans, holding to the authority of the national government to determine the economic and political systems of the United States, to develop internal improvements at national expense, to establish and maintain a national bank, and to enact protective tariffs; or they became states' rights Republicans, opposing each one of these principles and policies as destructive

of that state sovereignty which was for them the first and chief article of political faith. The former group became known as Whigs, with Henry Clay of Kentucky as their chief orator and spokesman, while the latter group became Democrats, who looked to Calhoun as their guide and a veritable fountain of political wisdom.

The teachings of Hamilton and the rapidly growing industrial system combined to bring the question of protective tariffs to the fore. The Whigs, who in 1824 had a majority in the Congress in that year, revised the tariff in the interest of protection, and in 1828 they went still farther. This action brought out formal protests on the part of the legislatures of South Carolina and of Georgia. When Congress paid no attention to these protests, the people of those states began to refer to the tariff laws as probably null and void through lack of constitutional authority in the Congress to enact them. Falling back upon the doctrines contained in the Kentucky and Virginia resolutions of 1798, and still more definitely expressed in the subsequent Kentucky resolutions of 1799,[1] they asserted that under the federal system the several state legislatures were competent to pass upon this question. This raised the question of national authority and competence in a most acute form. The discussion was no longer

[1] Preston, Howard W., *Documents Illustrative of American History*, 1606–1863 (New York, 1886), pp. 295–298.

a more or less academic one between representatives of two schools of thought and of constitutional interpretation, but it had become desperately practical, for the institution of slavery was certainly at stake. Within a few months the debate shifted from the specific issues that had been raised over internal improvements and tariffs to the fundamental question of the meaning of the constitution of the United States and the true character of the form of government which it had set up.

Superficially perhaps the weight of opinion and even the majority of eloquent and persuasive voices might appear to be on the side of those who looked upon the American nation as a mere confederation of sovereign states, and upon the constitution as a rope of sand. Those manifold influences which are constantly set in motion by parochialism, by provincialism, and by all forms of local or special interest were making for the same end. On the other hand, there were still more powerful and not always visible influences that were working on the side of the doctrine of national supremacy and an indestructible nation. Of these by far the strongest were the fabric of public law that was fashioned by the United States Supreme Court under the guidance of Chief Justice Marshall, and the passionate faith in the mission of the United States combined with ardent attachment to its fundamental institutions that was being spread abroad in the

hearts and minds of the people by the lofty eloquence of Daniel Webster. Without Marshall and Webster, Jackson could not have resisted the attempted nullification of an act of Congress by the state of South Carolina, and without Marshall and Webster Abraham Lincoln might have had neither the legal nor the moral foundation upon which to stand in his successful defence of the integrity and authority of the government of the United States. What had been done at Philadelphia in 1787, and what had been done and taught by Hamilton, as Washington's first secretary of the treasury, was now to be re-examined by a nation grown much larger, more diverse in its interests, and sharply separated into two sections by the institution of slavery.

So powerful was the judicial logic of Marshall, so undaunted the executive courage of Jackson, and so convincing the moving eloquence of Webster, that a body of law and a body of public opinion were built up that insured the integrity and the authority of the new nation for generations to come. The body of public law would have been inconsequent without a supporting public opinion, while public opinion would have been turned this way and that had it not been able to point to a body of accepted public law as its foundation. The work of Webster was a necessary complement to the work of Marshall, and the work of Marshall was a necessary foundation for the work of Webster. It was the

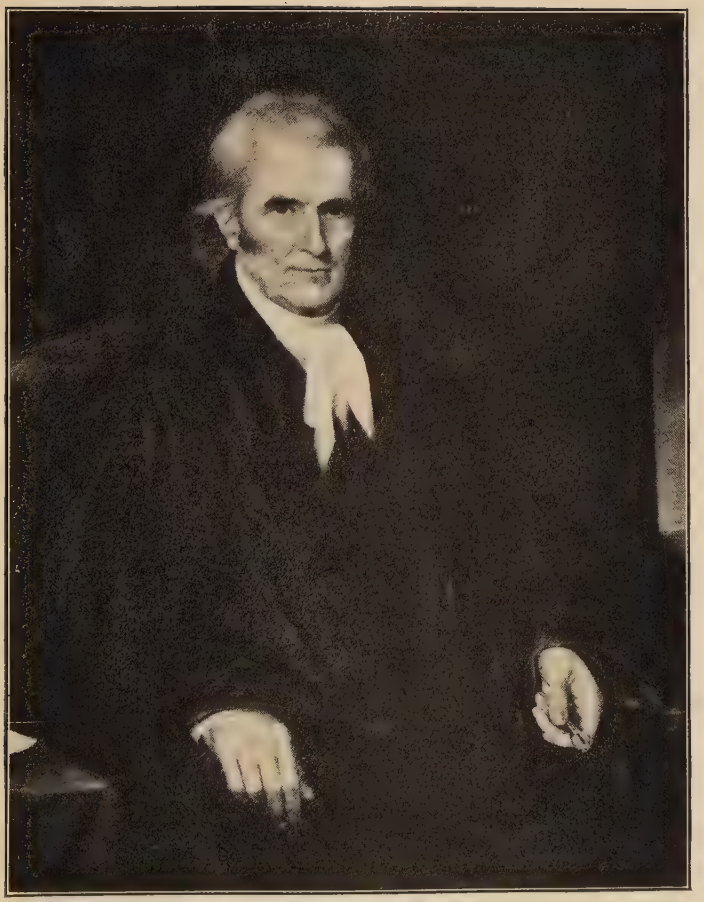
task of these mighty nation-builders to weld the parts of the nation firmly together in law and in public opinion. The Civil War sharply challenged the fruits of their life-work, but these came through the ordeal not only unscathed but strengthened.

John Marshall is one of the most attractive as well as one of the most powerful personalities in American history. The scholarly devotion and literary skill of former Senator Beveridge of Indiana, have given us what is not only a wholly admirable life of Marshall but also a brilliant and convincing study of his part in nation-building.[1] John Marshall was a Virginian by birth, and closely related through his mother to Thomas Jefferson, whose junior he was by twelve years. He was an admirable soldier and officer in the Continental army. Indeed it is to his experiences at that time, particularly perhaps during the desperately trying winter at Valley Forge, that one may trace the first beginnings of those strong currents of belief and opinion which flowed so powerfully through his later life. He had a short period of college residence at William and Mary College at Williamsburg, Virginia, studied law, and was quickly chosen to the legislature of his state. Here he learned much by observation and by contact with the men who were voicing the conflicting opinions of that critical period

[1] See Beveridge, Albert J., *The Life of John Marshall*, 4 vols. (Boston, 1916–1919).

in American history. When the constitution was submitted for ratification he was for it, and indeed played a large part in the convention through which the ratification of Virginia was finally secured. When Hamilton wrote to Madison that there was no hope for the constitution unless Virginia should ratify it, his words were literally true. If Virginia should fail, then George Clinton, Melancthon Smith, and their followers in the New York convention would have a new and perhaps conclusive reason for not yielding to Hamilton's pleading eloquence and overpowering arguments. It was the fortune of John Marshall to support the cause of Hamilton before the Virginia convention, as it was his fortune later in life to expound the political philosophy of Hamilton from the bench of the Supreme Court of the United States. It is perhaps prophetic that Marshall's chief and greatest speech before the Virginia convention was in exposition and defence of the judiciary article of the new constitution.

Quickly Marshall became a leader of the Federalist party in Virginia, and so great was his influence that Jefferson, little dreaming what his words might mean, proposed to Madison that Marshall be gotten rid of as a political force through an appointment to the bench. Other things were to happen first. Marshall was to become, despite his youth, a leader of the bar; he was to be sent to Paris with Pinckney and Gerry to adjust the differences between France



JOHN MARSHALL

1755–1835

From a painting by John B. Martin

and America; he was to engage in sharp controversy with Talleyrand; he was to receive an enthusiastic welcome on his return to the United States; he was to be chosen to the House of Representatives and quickly to make a mark there; he was to see short service as secretary of state in the cabinet of John Adams; and by Adams, at the very close of his administration, in 1801, he was to be appointed chief justice of the United States. For most men this striking succession of honours and events would have constituted and completed a public career; in the case of John Marshall they were only its beginning. For thirty-five years his powerful mind and statesmanlike vision were to dominate that department of the federal government which is at once its most characteristic and its most beneficent element. It is a mistake to say that Marshall's appointment by Adams was a purely political one. Nothing could be farther from the fact. Indeed the official Federalists were greatly dissatisfied with his appointment, and caused the Senate to withhold confirmation for some days in an attempt to have President Adams substitute the name of Justice William Paterson of New Jersey, for that of Marshall. Adams declined to change his mind, and Marshall was confirmed. John Adams rendered many services to his country, but he rendered no service that is quite comparable to that of selecting John Marshall to be chief justice of the United States. We

have ample evidence that Adams knew well what he was doing. There is recorded a striking statement that he made in the last year of his life, when the name of Chief Justice Marshall was mentioned in his presence by a visitor. "There is no act of my life," said Adams, "on which I reflect with more pleasure than the appointment of John Marshall as chief justice of the United States. I have given to my country a judge equal to a Hale, a Holt, or a Mansfield." [1] History sustains the judgment of Adams.

Of all the agencies of government established or contemplated by the constitution, the Supreme Court of the United States is the most distinctive and the most novel. It is not quite correct to say that the supreme court and its powers rest wholly on the provisions of the constitution; they rest in great part upon those same habits of thought and action, those same instincts of order and progress, that gave rise to the constitution itself. Legislative bodies of great power are familiar in every land, and no legislature possesses anything approaching the power of the House of Commons. Wielders of executive and administrative power, whether hereditary or chosen by lot or election, are familiar enough in the history of organised governments; but a judicial department of government, co-ordinate with the executive and the legislative departments and in the exercise of its functions independent of

[1] *Niles's Weekly Register*, vol. 39, p. 12 (Baltimore, 1830).

these, is something quite new. If one may modify a little the famous saying of Voltaire with reference to deity, it may be said that if the constitution had not provided a Supreme Court of the United States it would have been necessary to invent one; for otherwise the constitution would have been a mere meaningless declaration of moral and political aspirations. If the constitution was to be a rule of action, and if the sphere of civil liberty which it marked out was to be protected, without revolution, from invasion by executives and legislatures, then a United States Supreme Court was an absolute necessity. If the people of the United States do not like their constitution they may amend it, as they have done; but until they amend it, its provisions, and particularly its limitations, are quite as binding upon the executive and legislative departments of the government as they are upon the individual citizens. Justice Holmes has recently committed himself to the opinion that the United States would not come to an end if the supreme court lost its power to declare an act of Congress void.[1] The United States might not in that case come to an end in form, but it certainly would come to an end in fact. Passion, greed, expediency would meet no check in their onrush against those principles which are the outcome of centuries of human obser-

[1] Holmes, Oliver Wendell, *Collected Legal Papers* (New York, 1921), pp. 295–296.

vation and human experience. John Marshall both knew this and felt this. Moreover, he saw what the people of the United States might become if the nation which they were building should prove to be a real and permanent unity of effort, of resources, and of ideals on the part of the many and diverse elements and interests that were already included within its limits and that must, in the course of time, greatly multiply.

So John Marshall, from his high place upon the bench and with a force of reasoning that carried even reluctant colleagues with him, set himself the task of solving, in the spirit of his convictions and his faith, the specific issues that arose. Courts decide specific issues arising from a series of established facts that appear in a definite record which is before the court for adjudication. It is public opinion which translates these specific findings by a court into principles and rules of action, into hopes and into ideals. Marshall showed the greatest possible skill in making it easy for public opinion to do this with his most far-reaching decisions. His opinions, while not lengthy, were luminous, and time and again contain paragraphs of soundest political philosophy which the general public could understand and appreciate quite as well as members of the bar.

It is as important for a court of last resort to be as unthinking of popularity as it is independent of party. The history of the United States Supreme

Court abounds in illustrations of this fact. Time and time again it has been viciously attacked when history has proved it to be right, as it was viciously attacked when history showed it to be wrong. There has been no proposal made in recent years to limit the powers and prerogatives of the United States Supreme Court that has not been made with greater bitterness and rancour a dozen times before. Through a service of thirty-four years, Marshall demonstrated to the whole world that the United States Supreme Court was not only a court in the ordinary sense, but that it was a co-ordinate instrument of government, established by the people for their protection against the other co-ordinate instruments of government. If the federal union was to be preserved and grow, the possession by the United States Supreme Court of the full powers stated and implied in the constitution must be admitted, and the constitution must be so construed when controversies arose as to make for nationalist and not for anti-nationalist doctrines and interpretations. Quickly Marshall led the court to lay down the principle of the complete authority of the national government within its own sphere, including the right to protect its authority and to execute its laws in each and every case where they might be challenged. He accepted and stated the doctrine of Hamilton that the means taken for carrying out any power confided by the constitution must be

adapted to the end proposed to be gained, and might include whatever steps were necessary to the proper and complete execution of the authority which the constitution granted. It was of necessity established that the supreme court could pass upon the constitutionality of an enactment by any state legislature, and that it was to be the final judge of the validity of a treaty. The creation of territorial governments, the complete control of interstate commerce, the chartering of a bank and various other undertakings were pronounced within the scope of the authority of Congress in its task of promoting the general welfare by the means and in the ways set out in the constitution. It is difficult to imagine the United States of to-day without the body of public law which John Marshall expounded and fixed. It is no ordinary tribute to Marshall that when the political temper of the country changed and he was succeeded on the bench by Chief Justice Taney, himself a jurist of great learning and unblemished character, so little modification should have been made in the doctrines which Marshall had laid down.

For a full generation of men Marshall held the high office of chief justice. Towards the end of his life he was gravely concerned for the future of the country because of some of the policies and political methods of President Jackson. He felt that demagogy was displacing statesmanship, and that

the nation which he had aided so powerfully to build was in great danger. At that time the authority of the supreme court was openly challenged by the state of Georgia, and Marshall was greatly moved. He faced Jackson as unflinchingly as he had faced Jefferson thirty years earlier, and the court followed his opinion, which reversed and annulled a judgment of the courts of Georgia in reference to a matter which had deeply stirred the people of that state. Whether or not Jackson ever made the revolutionary statement which is attributed to him may not be definitely determined, but that statement probably did not misrepresent his views. "John Marshall has made his decision: now let him enforce it!" is ascribed to President Jackson by Horace Greeley on the authority of Governor Briggs, of Massachusetts.[1] The decision of the court in this case was never obeyed. For the moment the movement towards nation-building was checked and the spirit of particularism and of disintegration was uppermost. As fate would have it, Andrew Jackson was at this very moment coming to the full support of John Marshall's philosophy of government in his contest with the nullifiers of South Carolina, who were increasingly threatening under the leadership of Calhoun.

On July 6, 1835, Chief Justice Marshall died in

[1] Greeley, Horace, *The American Conflict* (Hartford, 1864), vol. I, p. 106.

the very city where the Declaration of Independence was written and the constitution adopted, where he had met with some of his most flattering receptions, and in whose neighbourhood he had endured at Valley Forge his most terrible suffering. He had reached the ripe age of eighty years, and his work was well done. There have been discourses without number on the life and public service of John Marshall. Jurists and statesmen, as well as citizens of private station, have showered tributes upon him and have exerted all their powers to make his work more fully understood. Of all these, perhaps none is more striking than that pronounced in Boston, Massachusetts, a few months after Marshall's death, at the request of the Suffolk bar, by Justice Story, who had been his associate on the bench of the supreme court for twenty-four years.

How this gigantic task of expounding the Constitution was met and executed by Chief Justice Marshall, let the profession, let the public, decide. . . . Having sat by his side during twenty-four years; having witnessed his various constitutional labours; having heard many of those exquisite judgments, the fruits of his own unassisted meditations, from which the court has derived so much honour . . . I confess myself unable to find language sufficiently expressive of my admiration and reverence of his transcendent genius. . . . The praise is sincere, though it may be perishable. Not so his fame. It will flow on to the most distant ages. Even if the Constitution of his country should perish, his glorious judgments will still remain to instruct mankind, until liberty shall cease to be a bless-

ing, and the science of jurisprudence shall vanish from the catalogue of human pursuits.[1]

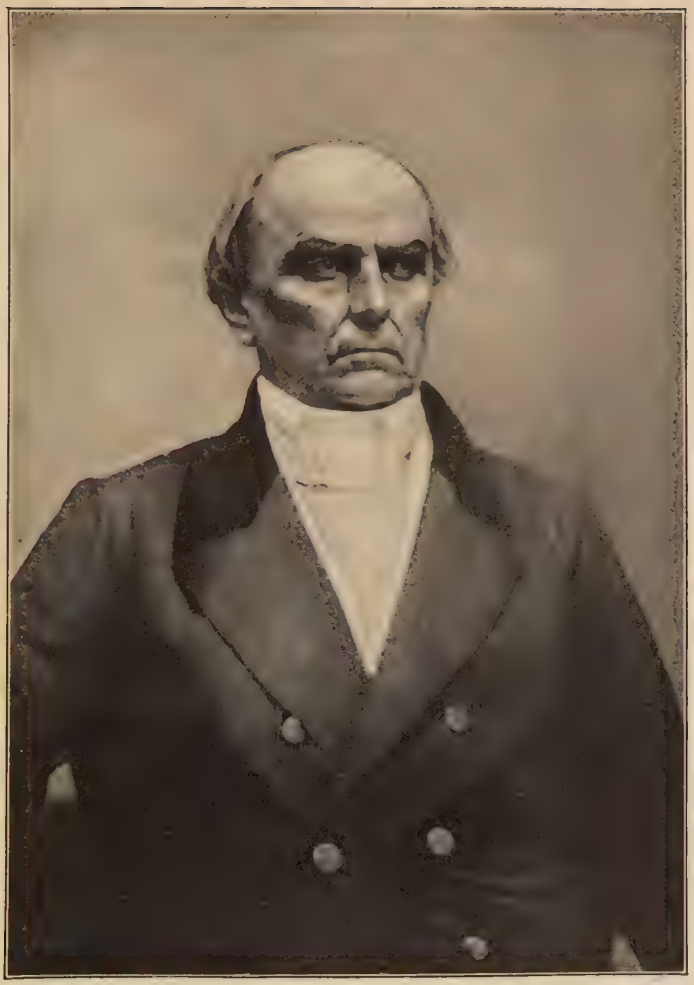
What John Marshall was upon the bench, Daniel Webster was at the bar, in the Senate, and on the public platform. Orators, like poets, are born not made, and Daniel Webster was a born orator. It was by reason of his distinguished personal presence, his command of language, his ordering of ideas, and his mode of rhetorical appeal that he made the beginnings of that path which finally led him to the highest posts in the public service and carved his name among those of the immortals who built the nation. Webster was not a great scholar, and he was, therefore, without some of those resources so useful to an orator that scholars have at their disposal. Whether or not he was a great lawyer has been disputed, but he certainly was a great expounder of the constitution and an eloquent representative of the mind and the heart of those millions of human beings who were bent upon making and upon preserving a worthy United States of America. Webster is associated with the state of Massachusetts, but he was a native of New Hampshire. There at the foot of the granite mountains he was born in 1782, springing from stock which, originally of Scotch origin, had come from England to Hampton

[1] Story, Joseph, *Discourse upon the Life, Character, and Services of the Honorable John Marshall, LL.D., Chief Justice of the United States of America* (Boston, 1835), pp. 72–73.

on the New England coast when the first settlements were made there about 1636. He was educated at Dartmouth College, and carried from it that affection and devotion which stirred him to a familiar burst of eloquence when a leading case involving the interests of the college was before the supreme court for decision in later years. He studied law and at once began to take an active interest in politics. Living as he did for a time at Portsmouth, New Hampshire, among a people whose commerce was gravely interfered with by the policies of Jefferson and Madison, he came under the influence of those later Federalist tendencies and doctrines that were so distinctly anti-nationalist and in odd contradiction to the principles from whose later defence Webster gained his undying fame. He was the author of the so-called Rockingham memorial, addressed in August, 1812, to President Madison, and which represented in unmistakable fashion the views of those who were in opposition to the administration at Washington.[1] The language of this memorial, while far removed from that of the Virginia and Kentucky resolutions, still asserts doctrines which at the hands of Calhoun might easily have been carried to extreme conclusions.

Much as one may regret the second war with England, which began in 1812 and which was as

[1] *The Writings and Speeches of Daniel Webster*, National Edition, 18 vols. (Boston, 1903), vol. XV, p. 299.



DANIEL WEBSTER

1782–1852

From a daguerreotype

unnecessary as any war ever was, the fact cannot be escaped that its effect upon the consolidation of the American Union was great and lasting.[1]

It brought to an end manifestations such as the Rockingham memorial and the Hartford convention, and opened the way to that era of good feeling which, if only temporary, was of excellent effect on the life of the people of the United States. Webster opposed the war, temperately and thoughtfully, and his public addresses on the subject gained him a substantial measure of public approval and public confidence. As a result, Webster was elected a member of the House of Representatives in the Thirteenth Congress, and took his seat in a legislative body of which Henry Clay of Kentucky was speaker and John C. Calhoun of South Carolina the leading spokesman for the administration. Almost at once Webster became involved in a debate with Calhoun, and so he continued until their living voices could be heard no more. When the Hartford convention was planned, Webster advised the governor of New Hampshire not to appoint delegates. He was, therefore, free of any complicity in that painful enterprise. In Congress Webster's mind grew by what it fed on. The question of protective tariffs, of a national bank, and of a navy all interested him and called his growing powers into action.

[1] See Butler, Nicholas Murray, *The Effect of the War of* 1812 *upon the Consolidation of the Union* (Baltimore, 1887).

He had made a distinct impression both upon the national legislature and the country when removal to Massachusetts to enter upon the larger field of professional activity which there awaited him brought his first service in the Congress to an end. For several years Webster was in private station, but it was during this period that he notably increased his reputation and public service alike through his argument in the Dartmouth College case,[1] which moved many of those who heard him to tears, took prominent and effective part in the convention to revise the constitution of Massachusetts, and delivered a truly remarkable oration at Plymouth to celebrate the two hundredth anniversary of the arrival of the Pilgrim Fathers. This oration alone would fix Webster's permanent place among the great orators, ancient and modern. It moves with stately and sonorous dignity over the whole field of the settlement and development of New England, and interprets with sureness and lofty patriotism both the meaning and the hopes of the new nation. Taken in connection with the oration at the laying of the corner-stone of the Bunker Hill Monument and that in commemoration of the lives and services of John Adams and Thomas Jefferson, both of which were delivered a few years later and while Webster was but little more than

[1] *The Writings and Speeches of Daniel Webster*, National Edition, 18 vols. (Boston, 1903), vol. X, p. 194, and 4 Wheaton, 518 (1819).

forty years of age, this gives complete demonstration of his great powers as an orator. Lord Morley remarks[1] that oratory ever since the days of Socrates, and perhaps long before, has been suspected as one of the black arts. Truly there are those who fear and who deride it, but as an instrument for exerting power over men, for arousing emotion, and for guiding action, it stands without an equal. The great orators of all time have been in large part the product of their age and their environment, and could not have been transplanted. It is far easier to contrast than to compare them. What Demosthenes was in the public life of Greece, what Cicero achieved before the Senate and the courts of Rome, what Bossuet revealed in his *Oraisons funèbres*, what Charles James Fox accomplished in the House of Commons, that Webster was, achieved, revealed, and accomplished in the Senate, before the courts of law, and on the public platform from which he so often appealed to the people of the whole United States. If he has not the conciseness and versatility of Demosthenes, if he has not that absolute perfection of style which is the mark of Cicero, if he has not the spiritual fervor and illumination of Bossuet, and if he sometimes appears to fall short of the exceeding great brilliancy of Charles James Fox, nevertheless Webster has that cumulative power and

[1] Morley, John, *Life of William Ewart Gladstone*, 3 vols. (New York, 1903), vol. II, p. 589.

massive force which follow upon the logical and orderly arrangement of material, upon a sure sense of the fitness of words, upon the firm grasp of underlying principles, and upon profound faith in the rectitude of his cause and a belief in the principles and ideals of the new nation which no opposition could shake, no discouragement weaken, and no defeat overthrow. Webster's oratory had the will to win, and it won in a forum and in respect of an issue which one would go far to parallel either in scope or in lasting importance.

In 1823 Webster was returned to the House of Representatives from Massachusetts. He was now forty years of age and at the height of his reputation and earning power as a lawyer. Responding to what he conceived to be the call of duty, Webster turned his back upon all this and plunged again into the political arena. It was his hope that statesmanship might overrule personal ambition and sectional interest, and that a way might yet be found for the nation to compose the profound differences which had arisen among its people and to go its prosperous and orderly way in peace. Matters of large importance were under discussion in the Congress, and Webster contributed to them all. After four years' service in the House of Representatives Webster was elected senator from Massachusetts. It is a significant commentary upon the shifting of political interest and political emphasis that not a

few of his friends feared that his reputation would suffer and his opportunities be narrowed through transference from the lower to the upper house of the Congress. They could not have foreseen what was so soon to happen. Shortly after the Twenty-first Congress met in December, 1829, Senator Foot, of Connecticut, introduced an innocent-looking resolution, the purport of which was to instruct the committee on public lands to inquire and report the quantity of public lands remaining unsold within each state and territory, and whether it was expedient to limit for a certain period the sales of the public lands to those that had heretofore been offered for sale. Similar resolutions have been and are introduced in the Senate at frequent intervals without exciting either comment or debate.

Foot's resolution, however, became the peg upon which to hang the most famous parliamentary controversy in the political annals of the United States. The suggestion was first made that the purpose of the resolution was unfriendly to the newer states of the West, but the area of debate was broadened and completely shifted when Senator Hayne of South Carolina arose on January 19, 1830, to oppose the resolution.[1] Hayne had succeeded to the leadership of his party in the Senate when Calhoun became vice-president in 1825. He was an orator

[1] Benton, Thomas H., *Abridgment of the Debates of Congress* (New York, 1859), vol. X, p. 418.

of exceptional personal charm and power, whose speeches were marked by singular beauty and grace of diction. If he fell below Calhoun in the unfailing rigour of his logic, he was a champion in debate whom any party might be glad to follow, and with whom any opponent, however worthy, must exert all his powers. Hayne poured forth a vivid and eloquent interpretation of the constitution in the sense which the extreme states' rights party held to be the only correct one. The argument of Hayne was so impressive that a number of senators insisted to Webster that it was his duty to make reply. On the following day Webster continued the debate and devoted himself explicitly to the opinions expressed by Senator Hayne. He pointed out that there were some persons in the part of the country from which Senator Hayne came who habitually spoke of the Union in terms of indifference or even of disparagement, and expressed the hope that Senator Hayne himself was not and never could be one of these. He emphasised the benefits of the union of states under the constitution, and gave to the provisions of that document an interpretation quite different from that of his opponent. Had the debate rested here it would have been significant and an important landmark in the history of nation-building, but it would not have been immortal. A few days later Hayne returned to a new and still more vigorous attack. The language and the pur-

port of Foot's resolution were now completely forgotten, and Hayne proceeded to a carefully reasoned exposition of his view of the constitution and to a vigorous polemic against the doctrines of those who did not assent to it. He cited the Kentucky and Virginia resolutions of 1798, and developed at length and in detail the theory of the constitution as a compact, and denied that either the Congress or the supreme court was vested with exclusive power to pass upon the constitutionality of acts of the national government. His peroration was of singular eloquence and closed with the exclamation that, in the language of Burke, "You must pardon something to the spirit of liberty!" [1]

Hayne's second speech aroused the greatest enthusiasm among his political followers, and was immediately accepted as being the last word in the argument against the Federalist and Whig theory of the constitution and the form of government erected upon it. There were those, however, who awaited what they knew must be Webster's reply. At the very moment when Hayne was receiving the enthusiastic congratulations of his friends, and when his name was being linked with those of the great orators of liberty in England and in the colonies, Senator Iredell, of North Carolina, is reputed to have said: "Hayne has aroused the

[1] Benton, Thomas H., *Abridgment of the Debates of Congress* (New York, 1859), vol. X, p. 428.

lion; wait till we hear his roar and feel his claws." On the second day following the conclusion of Hayne's speech, Webster rose in a senate chamber crowded to the utmost capacity to make what proved to be the greatest effort of his life, as well as the greatest of American orations.[1]

It was Webster's second and final reply to Hayne that gave to the defenders and exponents of the nationalist interpretation of the constitution a whole armoury of argument, and which roused throughout the land a feeling of patriotic fervour and devotion that had hitherto been quite unknown. Whether judged by its form or by its content or by its effect, Webster's second reply to Hayne will never lose its commanding place in American history, and it will never cease to inthral the attention and arouse the admiration of men. Its noble peroration has been on the lips of schoolboys for nearly a hundred years, and its closing words, "Liberty *and* union, now and forever, one and inseparable!" became the motto of national feeling and national purpose, and also furnished the platform upon which the Civil War was fought by the defenders of the Union. Too often students and writers of history are content with reading Webster's second reply to Hayne. The state of opinion in the United States in the year 1830 cannot, however, be fairly judged or estimated

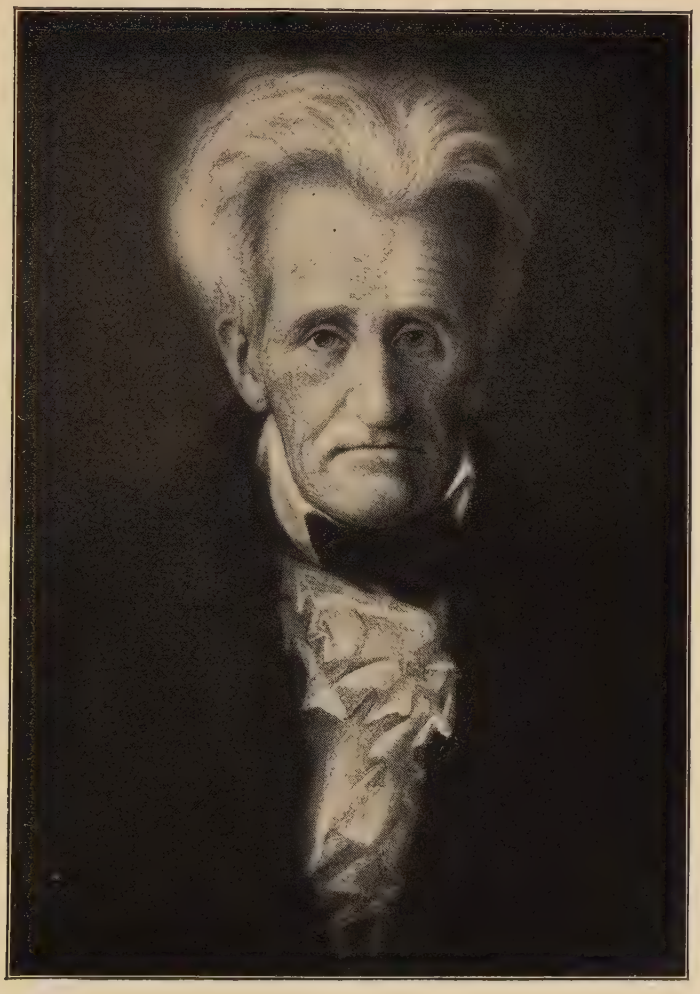
[1] *The Writings and Speeches of Daniel Webster*, National Edition (Boston, 1903), vol. VI, p. 3.

unless the debate between these two giants be studied in its entirety. When the arguments of Hayne are read, one wonders that Webster could refute them; when Webster's arguments are weighed, one wonders that Hayne could attack them. Each orator heartened his friends and strengthened their faith in their cause, but neither converted the other. The arbitrament was slowly moving from the arena of debate to that of war.

How close the nation came at that time to a serious physical contest will only be understood by those who carefully read the story of the nullification controversy. The legal teachings of Marshall and the political arguments of Webster seemed to make nullification of an act of the Congress by a state an impossibility, but Calhoun, Hayne, and their followers did not and would not accept these teachings and arguments. To do so would be to doom slavery to early extinction.

What might have happened had some one other than Andrew Jackson been President of the United States must remain forever a matter of speculation. That extraordinary man, whose acts were so often the result of temper and of personal feeling, put his foot down with resounding emphasis on the side of the nation-builders at a critical moment. In so doing, Jackson contradicted himself in more than one particular. Born in the Carolinas in 1767, of Scotch-Irish ancestors who are known to have come

from Carrickfergus on Belfast Lough, Jackson led an eager and an active life. He early pushed west of the mountains into Tennessee, and soon began to take part in the public life of the new communities that were growing up there. In 1796 he took his seat as the single and the first representative of Tennessee in the House of Representatives and immediately identified himself with the opponents and critics of Washington. Jackson was a frontiersman, and apparently he did not like the unqualified praise which was given to Washington as he retired from the presidency. At all events he was one of the twelve members of Congress who, after three days of acrimonious debate, voted against the address proposed to be offered to President Washington on his retirement from public life. With Jackson voted Giles, of Virginia, and, curiously enough, Edward Livingston, then of New York, who was later to be Jackson's secretary of state and whose accomplished hand was to write the text of Jackson's proclamation in respect of nullification. Jackson's short service in the House of Representatives was most acceptable to his constituents, who promptly sent him to the Senate. The work and the methods of this body did not suit Jackson, and after a few months he resigned the senatorship to become judge of the supreme court of Tennessee. Here he remained for six years, and although his knowledge of law was less than modest, he left a good reputation



ANDREW JACKSON

1767–1845

From a painting by G. P. A. Healy

by reason of his hard common sense, his ever-present courage, and his strict integrity. While very little record of his judicial work is preserved, one may readily agree with that biographer of Jackson who remarks that his opinions were untechnical, unlearned, sometimes ungrammatical, and generally right.[1] For some years he gave himself over to the care of his private affairs, during which time he made the acquaintance of Aaron Burr, by reason of which acquaintance he became involved in various quarrels, some of which affected his political associations.

Jackson had long been interested in military affairs, and was indeed major-general of militia in the state of Tennessee. When the War of 1812 began, Jackson's military instincts and military skill were quickly availed of, and his successful defence of New Orleans against the British troops in a battle which reached its conclusion some days after the Treaty of Ghent had been signed re-establishing peace between Great Britain and the United States, made him a popular hero. After service against the Indians and as governor of Florida, Jackson's friends brought him forward as a candidate for the presidency in 1824. Conditions were unusual, and, although Jackson secured a plurality of votes in the electoral college, he did not have a majority, and the

[1] Parton, James, *Life of Andrew Jackson* (Boston, 1883), 3 vols., vol. I, p. 227.

election thus being thrown into the House of Representatives, John Quincy Adams was chosen over Jackson. Those who thought that Jackson's popularity would wane before the next presidential election were mistaken, and when the votes were cast in 1828 Jackson was found to have carried all of the Southern and Western States as they then were, and also Pennsylvania. It might have been supposed that the man who had voted against the address to Washington and who had violently attacked John Quincy Adams, Henry Clay, and the Whigs generally, would, in his high official station, give voice to the policies and ideals of the states where slavery existed. Deep down in Jackson's nature, however, there was something which made this impossible. He loved his country, and in his rough, untutored way he felt that the spirit of democracy which meant so much to him could thrive better in a national atmosphere than in one of sectionalism and sectional conflict. It may well be that his break with Calhoun made him quite ready to oppose any cause that Calhoun should espouse, but Jackson's defence of the nationalist interpretation of the constitution, almost despite himself, rested upon a deeper and more solid foundation than personal antagonism.

By the time that Jackson was installed in the presidency the contest over protective tariffs and their constitutionality was at its height. The debate between Hayne and Webster was followed by

Jackson with eager interest. He was at first greatly pleased with Hayne's arguments and positions, but on riper reflection it was Webster's glowing defence of the Union that went home to the seasoned old patriot in the White House.[1] It is within the truth to say that Jackson's national instincts were turned into convictions and rules of official conduct by the argument of Daniel Webster in the great debate. When a little later it was proposed to revise the tariff, the question of nullification came sharply to the front. If the state's right to nullify an act of Congress was to become an accepted part of the federal system, the national government must assent to some concrete act of nullification. Calhoun drafted a programme to this end and South Carolina undertook to carry that programme out. Should the attempt fail, no alternative remained except the gradual extinction of slavery or secession of the slave-owning states from the Union. Calhoun's logic was remorseless. He took his departure from the proposition that the colonies were from the moment of their settlement entirely independent of each other, directly and indirectly; that independence was declared by each colony for itself, and thus each colony became completely sovereign as against Great Britain while retaining its original independence of every other colony; that the Continental Congress was merely

[1] Bowers, Claude G., *Party Battles of the Jackson Period* (Boston, 1922), p. 94.

a meeting of ambassadors from sovereign states; that the confederation of 1781 was a legal friendship between the governments of sovereign states; that the federal union of 1789 was a compact between the peoples of sovereign and independent states; that the parties to the compact were the states in their separate, organised, political capacity and not the individual citizens; that, therefore, the agent, namely, the federal government, created by the states to carry out the stipulations of the compact stood in no immediate relation to the individual citizens of any state; that the loyalty of the citizen is therefore due to his state, and to his state only, since he has nothing to do with the national government; that the state, therefore, is the definer of the citizen's rights and duties, as well as the defender of them; that if the federal government undertakes to exceed its delegated powers in any respect the state, in convention of its citizens assembled, may judge in the first instance whether the national government has exceeded its authority in respect to the citizens of that state; that each state in convention assembled has the authority to suspend the action of any measure which marks an improper use of power by the national government over the citizens of that state until such time as three-fourths of the states in convention assembled should uphold the constitutionality of the act of the national government. In other words, Calhoun held

that in any dispute between the national government and an individual state the latter should have its own way unless and until conventions in three-fourths of the states should give judgment against it. These Calhoun declared to be the fundamental principles of the constitution so far as bore upon its interpretation. He referred to the right of nullification as the great conservative principle of the constitution. It goes without saying that if Calhoun could fasten upon the nation his theory of constitutional interpretation, slavery would be forever safe, at least where it then existed; but Calhoun did not stop here. His theory took account of the situation which might arise if three-fourths of the conventions in the states should approve an act of the Congress, which act destroyed the very foundation of the compact, and not merely dealt with the detail of it. As an example he cited the clause which assures to each state an equal representation in the Senate. In case any proposal to alter this provision should be held constitutional by conventions in three-fourths of the states, Calhoun held that the political bond between the state that was deprived of its equal representation and the other states would be *ipso facto* dissolved. In such case the limitations placed on the sovereignty of the state by the constitution would fall away and the state would stand a complete nation, wholly separate, and related to its former associates only by the

bonds of international law and comity. Any attempt to coerce a state in this position would be war.

No fault can be found either with the elaborateness, the logic, or the completeness of Calhoun's doctrine. The objection to it was that its fundamental assumptions were not to be found in the constitution or in the history of its making, and that they could not be deduced from it. The historical development of the United States and the history of the political system that had been built up flatly contradicted Calhoun. If his interpretation was to be fastened upon the constitution, it could only be by revolution, either violent or peaceful. The easiest way to effect such revolution was to have some state make the attempt to put Calhoun's doctrines into effect and see what happened.

South Carolina was the willing agent in the enterprise. On November 24, 1832, a convention of the people of that state, assembled at Columbia, the state capital, adopted an ordinance the purpose of which was to nullify certain acts of the Congress of the United States, purporting to be laws laying duties and imposts on the importations of foreign commodities.[1] This ordinance accepted the theories of Calhoun in their entirety, and practically ordered the government of the United States out of the

[1] Preston, Howard W., *Documents Illustrative of American History* (New York, 1886), p. 300.

territory of the state of South Carolina so far as the tariff laws in question were concerned. Anticipating an attempt to enforce these laws upon the people of South Carolina, state troops were organised and the usual provisions were made for armed hostilities. There had been some doubt expressed as to what action would be taken by Jackson in a crisis of the kind that had now arisen. Perhaps these doubts would have been lessened, or might have disappeared entirely, if more attention had been paid to the speech of Edward Livingston, Jackson's friend and now his secretary of state, when he intervened in the debate on the Foot resolution. He then defended the federal union against the doctrine of nullification, and plainly indicated the difference between the position of Jackson and that of Calhoun. Jackson found early and excellent opportunity to declare himself. Martin Van Buren, in his intensely interesting autobiography, gives a full account of the incident.[1] It took place on the celebration of the birthday of Thomas Jefferson in 1830, when harmony in support and defence of party principles might reasonably be expected. President Jackson accepted an invitation to attend the dinner and knew that he would there meet Calhoun, who was vice-president at the time, and

[1] *The Autobiography of Martin Van Buren*, edited by John C. Fitzpatrick, published by the American Historical Association (Washington, 1920), pp. 413–417.

also Hayne. Most of the toasts that were offered naturally dealt with Jefferson or with the state of Virginia, but when the president was called upon he arose in his place and, looking Calhoun straight in the face, proposed the toast: "Our Federal Union —it must be preserved!" His action created a sensation, for it was both in form and in effect a declaration of war on the part of the chief executive against the nullifiers. Vice-President Calhoun in turn proposed this toast: "The Union—next to our liberty the most dear; may we all remember that it can only be preserved by respecting the rights of the states and distributing equally the benefit and burden of the Union." With the form of this toast no fault can be found, but its spirit, in assuming that liberty took precedence over union and was perhaps incompatible with it, was unmistakable. Jackson had in effect repeated Webster's famous peroration, and Calhoun had put liberty as he conceived it before union. No statement of the issue could be more precise or more concise.

When the Ordinance of Nullification was finally adopted, Jackson was ready for it, and promptly issued, under date of December 10, 1832, his famous proclamation against nullification. This document, written by Edward Livingston, one of the most learned and accomplished public lawyers of his time, is a succinct restatement of the nationalist doctrine of the constitution and flatly announces that the

power to annul a law of the United States, assumed by one state, is incompatible with the existence of the Union, contradicted expressly by the letter of the constitution, unauthorised by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.[1]

The proclamation is in effect a treatise on the federal system under the constitution, and in its concluding passages calls upon the people of the United States to meet the crisis which has arisen in their affairs by giving their undivided support to the national government. The proclamation expressly states that the preservation of the Union depends upon successful resistance to the doctrine of nullification.

It is this proclamation which justifies giving Andrew Jackson a place among the nation-builders. He did and said many things that were unfortunate and reactionary, but he was honest and patriotic to the core, and when the time came that a great decision had to be made he made it on the side of the preservation of the Union. The influence of Jackson in nation-building is not comparable to that of Marshall or of Webster, which was so constant and which continued over so many years, but it is dra-

[1] See *Proclamation of Andrew Jackson, President of the United States, against Nullification*, December 10, 1832, printed by order of the House of Representatives (Washington, 1862).

matic and in the highest degree important. In the United States a hearing is given to the words of the president that no other man, however eminent, can receive. Jackson spoke to the nation from the White House, and he spoke with such force and such reasonableness that the nation listened. If the subsequent history of the attempt at nullification shows that the pride of the nullifying states was not entirely humbled, that fact may be overlooked in view of the greater fact that the sum total of the controversy was greatly to strengthen the convictions and the will of those who would defend the Union at all costs. The slow and steady influence of Marshall's expositions of the law and the constant and burning appeals of Webster were having their effect year in and year out. If nullification was defeated, as in the forum of public opinion it certainly was, then but one way of escape remained open to the defenders and upholders of slavery. If they cared more for the right to deal with slavery as a domestic institution under their own control than they did for the glory and purpose of the united nation, then they must take steps to secede from the Union and to form separate governments or a separate government of their own.

There was still opportunity for controversy and possible gain for the slave-owners in respect of the territory lying west of the Mississippi River and south of 36° 30′. Beyond that there was no pos-

sibility for the extension of the slave system into new states. Slavery must surrender and pass away or it must force secession and make a new government of its own. Marshall died in 1835, when Jackson had made his fight against nullification and when a different but somewhat similar controversy with the state of Georgia was fresh in the public mind. Jackson died in 1845 before the war with Mexico and while the controversy had not advanced substantially beyond the point where he had taken so decisive a part in it. Webster lived until 1852, when coming events were already beginning to cast their shadow before. The Senate was a constant battleground for notable orators, learned lawyers, and eager controversialists. Each time that the waves of secession and disunion beat upon the shores of national conviction and national faith they found firmer and steadier resistance. The prospect of civil war was abhorred by almost all Americans but was feared by not a few.

Slowly the logic of the constitution revealed itself and it steadily became more plain that as Abraham Lincoln said a few years later: "A house divided against itself cannot stand; a government cannot endure permanently half slave and half free." [1] The slave system must either control the Union or destroy the Union or be itself destroyed.

[1] Nicolay, John G., and Hay, John, *Complete Works of Abraham Lincoln*, 2 vols. (New York, 1902), vol. I, p. 502.

There would come a time when argument and appeals to reason and compromise would no longer avail, and when recourse must be had to force.

VI

DEFENDER AND PRESERVER OF THE NATION'S UNITY AND POWER

ABRAHAM LINCOLN

Delivered at the University of Glasgow, June 4, 1923

DEFENDER AND PRESERVER OF THE NATION'S UNITY AND POWER

ABRAHAM LINCOLN

Maitland once wrote a sentence which is called to mind as one follows the fortunes of nation-building in the United States during the Civil War and the years just preceding: "Far from us indeed is the cheerful optimism which refuses to see that the process of civilisation is often a cruel process."[1]

These years are cruel to the fortunes of individual leaders of opinion, cruel to the fate of political parties, and cruel to millions of the men and women of the nation whether living in the north or in the south. They were illumined by notable achievements, by intellectual exhibitions of high order, and by moral enthusiasms and appeals that will never be forgotten, but they were cruel withal.

Between the nullification controversy and the Civil War lay some twenty-five years full of fateful happenings in the life of the nation. Some have described these years as the lull before the storm, but years which include the controversy over the annexation of Texas, the war with Mexico, the

[1] Maitland, Frederic W., *Domesday Book and Beyond* (Cambridge, 1897), p. 223.

Compromise of 1850, the Kansas-Nebraska Act of 1854, the Dred Scott decision rendered in 1857, and the Lincoln-Douglas debates of 1858 can hardly be described as a lull. As a matter of fact the Compromise of 1850, which was largely the work of Henry Clay of Kentucky, was the last desperate attempt to save the Union without dealing firmly and finally with the one thing which chiefly threatened it, namely, slavery. Henry Clay was as attractive a political spokesman and leader as has ever appeared in the United States. Indeed he is in some ways the most attractive, for he combined with large intellectual capacity and unusual oratorical gifts the power to attach his followers to his person and his fortunes with hooks of steel. His nearest rival in this respect is perhaps James G. Blaine of Maine, who came upon the stage a generation later. When Clay lost the presidency in 1844, men burst into tears and took upon themselves inconceivably absurd and foolish vows in token of their grief and disappointment. For a half-century Clay was a dominating figure in the public life of the nation, as well as in the halls of Congress. He, first of all public men in the United States, saw the possibilities that lay before the South American settlements, and encouraged them in their struggle to be free from the sovereignty and domination of Spain. He was eager in his support of the policy of internal improvements, of protective tariffs, and of those

public acts which in his judgment would bind the several parts of the nation more closely together. To him the Union was more dear than any policy under it, and this conviction guided him in that spirit of compromise which more than once led him to attempt to solve the nation's problem by postponing its solution. It is idle to say, as some have done, that the Compromise of 1850 was wholly due to Clay's desire to be president, and that the Seventh of March Speech of Webster and certain acts in the public life of Calhoun are to be traced to a like motive. No Americans before or since have been more justified in aspiring to the presidency than Henry Clay, Daniel Webster, and John C. Calhoun. Ability, character, and public service would have justified the selection of any one of them, or of all three in turn. They were too great to be president under the conditions which then existed, for in the bitter struggles of that most controversial of periods they were compelled, and indeed chose, to take positions which sharply divided the people of the United States and alienated the support of large and influential groups. Their last appearance together in the Senate during the debate on the Compromise of 1850 was a scene of unrivalled interest. Clay was in his seventy-third year, while both Webster and Calhoun were approaching seventy. Indeed Calhoun's strength had so failed that he was unable to deliver the speech which he had prepared,

and it was read for him by his friend Senator Mason of Virginia. Within a month Calhoun's life had ended. Webster's contribution to the debate, delivered on March 7, 1850, is by many considered to reach the high-water mark of his eloquence. By this speech Webster alienated thousands of his supporters in the North, particularly in Massachusetts, for the ground that he took in support of the compromise seemed to them to mark a long retreat from the position which he had previously held. Theodore Parker's bitter attack on the memory of Webster is an indication of one of the effects which this speech produced.[1] A juster and a kinder judgment will see in this speech not a change of attitude on Webster's part as to the fundamental issues growing out of different interpretations of the constitution, but rather a movement towards the position which Abraham Lincoln later held with so much emphasis and to the profound disgust of the abolitionists, that the Union must be preserved even if slavery remained in the position which it held when the constitution was adopted and under the restrictions put upon it by the constitution.

Clay's compromise plan cannot be understood without some account of the struggle over Texas and the war with Mexico. These were both new manifestations of the purpose of the slave-owning

[1] Parker, Theodore, *Discourse Occasioned by the Death of Daniel Webster* (Boston, 1853).

states to gain new territory for slavery so that the balance of power in the Senate of the United States might not be disturbed to their disadvantage. When, after the Missouri Compromise, Arkansas was admitted to the Union as a slave state in 1836 and Michigan as a free state in 1837, the equilibrium was still maintained. There were then thirteen states classed as Northern or free, and thirteen states classed as Southern or slave-owning. In 1845, however, the balance was upset by the admission of Florida, which had been acquired from Spain by treaty, as a slave state.

Meanwhile Southern influence was extending itself towards the southwest, and Southern opinion was looking in that direction for the support and aid which might come from the organisation there of new slave-owning states. Into the history of Texas it is not necessary to go in detail. How Texas, which had been part of Mexico, broke loose or was broken loose from that republic, how it was annexed to the Union as a slave state, despite the fact that Mexico had abolished slavery in all its territory some years earlier, and how the people of the United States were plunged into war with Mexico are not sufficiently creditable pages in American history to be alluring to the interpreter.[1] If the War of 1812 with Great Britain was unnecessary, the war of

[1] For a somewhat more favourable view, see Rives, George Lockhart, *The United States and Mexico* (New York, 1913), vol. II, pp. 656–659.

1846–1848 with Mexico was still more so. Beyond assisting to make Andrew Jackson and Zachary Taylor presidents of the United States, and Winfield Scott the candidate of his party for the presidency, it is difficult to see what these two wars accomplished that could not have been far better and more honourably done by the methods of reasonableness and peace. But the slave-owners were in the saddle and were obdurate. Despite Jackson's proclamation against nullification, South Carolina had not repealed the Ordinance of Nullification until the Congress had revised the offending tariff law, and so at least a partial victory in the controversy between state and nation could be claimed for the state. Strong as was Jackson's own stand against nullification, other of his executive policies constantly gave aid and comfort to the anti-nationalist movement. The public mind, therefore, both North and South was greatly confused as to the progress of the struggle which underlay the succession of events, and was the more readily amenable to such proposals for compromise as Clay brought forward with powerful support.

The cause of the slave-owners required some sort of aggressive movement in the direction of Texas and Mexico.

Texas was a commonwealth like an American state, and its constitution forbade the importation of slaves and declared that all persons born after

the establishment of that constitution should be free. In 1829 the Mexican Government had declared emancipation for all slaves within its jurisdiction. The slave-owning states, therefore, were face to face with the fact that directly west and south of them was a huge territory dedicated to freedom which might soon be open for settlement and erection into states of the Union. Two things were necessary: first, to extend slave-owning influence over this territory, and, second, to acquire control of it.

Texas could not be bought from Mexico, since this had several times been tried in vain. To declare war on Mexico for the purpose of seizing Texas was a little too mediæval for the men of the period. Another possibility was that Texas might be induced to declare its independence of Mexico and then brought into the Union on its own initiative, even if this should involve an armed contest with the Mexican Government. It was this latter course which seemed likely to secure the desired end in the most roundabout way, and it was taken. Various groups went from the United States into Texas and established themselves in positions of economic, political, and military importance. A revolt was organised, and in 1836 Texas appeared as an independent state with slavery recognised, despite the fact that this institution had been abandoned by the Mexican Government seven years earlier. A controversy

arose in the Senate over the mode of recognising Texan independence. The recognition of a foreign government is under the constitution a matter of executive discretion and action, but the Congress, and sometimes the Senate alone, is given to expressing views on questions of recognition, usually for purely political reasons.

Events moved rapidly and public feeling was deeply stirred. The attempt to annex Texas by treaty failed of ratification by the Senate. Calhoun, however, was secretary of state, and his shrewdness discovered another method of procedure. He now declared that the constitution placed the whole subject of foreign relations ultimately in the hands of the Congress, although for the sake of convenience diplomatic negotiations devolved upon the president with the advice and consent of the Senate, unless the Congress should see fit to assume these powers itself. Jackson in his veto message of the bill to recharter the national bank had held that each department of the government could and should interpret for itself what its powers were. Calhoun, on the other hand, was now holding that the Congress was to interpret what powers belonged to it and what to the president. Both doctrines were false even though contradictory. It was to such a pass that the logic of the defenders of slavery had brought the government of the United States.

The presidential election of 1844 resulted in the

defeat of Henry Clay by James K. Polk of Tennessee, who was at that time almost unknown to the people. Clay's defeat was attributed to his having wavered on the subject of the annexation of Texas, which fact lost him the support of many of the so-called Free-soil party in the North. The election of Polk was at once claimed as an indorsement of the policy of annexation. President Tyler accepted this view, and in his message at the opening of the second session of the Twenty-eighth Congress, read on December 3, 1844,[1] he stated that the question of annexation had been submitted to the ordeal of public sentiment, and that a controlling majority of the people and a large majority of the states had declared in favour of immediate annexation. Acting on this hint, Senator Benton of Missouri promptly introduced a bill to provide for the annexation of Texas to the United States, in which bill were outlined for the guidance of the president very precise terms of action. A few days afterwards Stephen A. Douglas, then a representative from Illinois, introduced an elaborate joint resolution for the reannexation of Texas to the United States in conformity with the treaty of 1803 for the purchase of Louisiana. This was a proposal to reopen the disputed question as to the western boundary of the Louisiana Purchase, and also to get around

[1] Benton, Thomas H., *Abridgment of the Debates of Congress* (New York, 1863), vol. XV, pp. 156–165.

the constitutional provision as to the treaty-making power by admitting Texas, now an independent nation, as a state not by treaty but by joint resolution, on the theory that at no time since 1803 was its territory legally out of the dominion of the United States. Naturally, these proposals led to long and bitter debate in which the constitutional question was not by any means overlooked.

Finally, on February 26, 1845, a joint resolution declaring the terms on which Congress would admit Texas into the Union as a state was passed by the Senate by a vote of 27 to 25, and two days later by the House of Representatives by a vote of 132 to 76. Then followed the war with Mexico. The Treaty of Guadalupe Hidalgo, proclaimed July 4, 1848, by which hostilities were concluded, not only recognised the annexation of Texas but brought under the jurisdiction of the United States the enormous area known as New Mexico and California, an area much larger than that included within the present states bearing those names. Once again, therefore, the question of the preservation and extension of slavery and the relation of these to the admission of new states came to the fore. What should be the relation of the Missouri Compromise to this new territory? Most of it lay south of 36° 30′. But the growing antislavery sentiment in the North, made increasingly active by the widespread conviction that the Mexican war had been

undertaken for the express purpose of extending the slave-owning area, was not likely to consent to erecting new slave-owning states in this region. Matters were brought to a head when, on August 8, 1846, David Wilmot, a representative in Congress from the state of Pennsylvania and a Democrat, offered an amendment to a pending bill making appropriations to enable the president to conclude a treaty of peace with the republic of Mexico, to the effect that as an express and fundamental condition to the acquisition of any territory from the republic of Mexico by the United States neither slavery nor involuntary servitude should ever exist in any part of such territory except following conviction for crime.[1] This amendment, known as the Wilmot Proviso, is famous in the history of the later controversy over slavery. Abraham Lincoln records the fact that while he was a member of Congress he voted for the Wilmot Proviso as many as forty times.[2]

The resulting struggle was bitter, and was only ended by the compromise resolutions of 1850, proposed and carried through the Congress by Henry Clay. Under the terms of this compromise California was admitted as a state, and territorial governments were established in Utah and New Mexico

[1] Benton, Thomas H., *Abridgment of the Debates of Congress* (New York, 1863), vol. XV, p. 646.

[2] Nicolay, John G., and Hay, John, *Complete Works of Abraham Lincoln* (New York, 1902), vol. I, p. 218.

without reference to the Wilmot Proviso. At the same time a more stringent law was passed for the remanding of fugitive slaves, and while slavery was not abolished in the District of Columbia, the slave-trade was prohibited there. As one looks back, this compromise is seen to be a mere makeshift of despairing statesmanship. The defenders of freedom gained one new free state which would have been free in any event, while the upholders of slavery secured another opportunity to extend their system into an immense region that had once been made free, as well as the better enforcement of provisions for the return of fugitive slaves. Even those who were most concerned with framing and adopting this compromise can hardly have looked upon it as a settlement. What they did hope for was that further discussion of slavery in the national legislature would now cease. In this they failed to take account of the rising tide of feeling against slavery in all its forms even under the restrictions which the constitution put upon it.

In 1831 William Lloyd Garrison had begun the publication of *The Liberator*, and started the movement for the total abolition of slavery with a fire and fury that knew no limits. Two years later the American Antislavery Society was established at Philadelphia, and while first its membership was small, it grew steadily from year to year. Fortunately for the abolitionists the antagonistic majority

in the House of Representatives shifted the issue and greatly strengthened the hands of those who were opposed to slavery. The abolitionists began to pour in petitions upon the Congress asking for the abolition of slavery, and the venerable John Quincy Adams, then rendering, as a member of the House of Representatives from Massachusetts, the greatest service of his long career, was their spokesman and defender. When the House of Representatives refused to receive these petitions and treated them with contempt, the question was no longer one of slavery but of that right of petition which the constitution itself guaranteed. On this question the position of the slave-owners was so indefensible that they could not fail to lose ground every time it was discussed. Year by year slavery became in the minds of the people more and more a moral issue as well as a political issue. John G. Whittier and James Russell Lowell were almost as powerful with the pen as Daniel Webster had been with the spoken word. The pulpit rang with denunciations of slavery, and a host of public speakers, lay and clerical, were attacking it before schools, colleges, and public gatherings of every sort. It was clear that the dam must soon break.

The end was unconsciously hastened when Stephen A. Douglas, now become senator from Illinois, thought he had discovered a formula by which the question of slavery might be put to rest forever.

This formula was incorporated in the measure known as the Kansas-Nebraska Bill, which had for its purpose the ordering of local government in the vast unorganised territory lying west and northwest of Missouri. The formula of Douglas was that Congress should neither legislate slavery into any territory or state nor out of any territory or state, but that the people of each territory or state should be left free to regulate their domestic concerns as they might choose, subject only to the constitution of the United States. This formula was called the principle of popular sovereignty, and was highly attractive both in form and in substance. Had slavery truly been a matter of local interest only and of no moral concern, the formula of Douglas would have provided an excellent method by which to settle the existing differences. Douglas failed to reckon, however, with three things: the grasping character of the policies of the defenders of slavery, the rapidly rising tide of moral indignation against slavery, and the personality and influence of Abraham Lincoln.

Douglas was a powerful and influential figure who almost succeeded in reaching the ambition of his life. He failed not through lack of cleverness or of persistence, but because he did not and could not rise to the height of the great argument. He constantly moved on the plane of expediency, and that which Henry Clay could not accomplish in 1850

was quite beyond the power of Douglas ten years later. The famous debates between Lincoln and Douglas during the summer of 1858, nominally before the people of the state of Illinois but really before the people of the whole country, effected the re-election of Douglas to the Senate in 1858, but at the same time made possible the election of Lincoln to the presidency in 1860. The debates on the Kansas-Nebraska Bill and the issues which it raised not only strengthened the zeal of the abolitionists and the Free-soil party generally, but brought into existence a new political organisation, the Republican party of to-day, which was formally organised under the oaks at Jackson, Michigan, on July 6, 1854, and which has largely directed the policies of the nation for more than half a century. Moreover, these debates brought forward a new group of combatants and leaders of national importance. Chief among them were Wade and Chase of Ohio, Seward of New York, Sumner of Massachusetts, and Jefferson Davis of Mississippi. These names became as common as household words until the great name of Lincoln cast a shadow over them all.

The new Republican party was founded upon a declaration of political principles that was shot through and through with moral earnestness and moral enthusiasm. To oppose the extension of slavery was the first and chief item of its programme. The new party was in a general way the

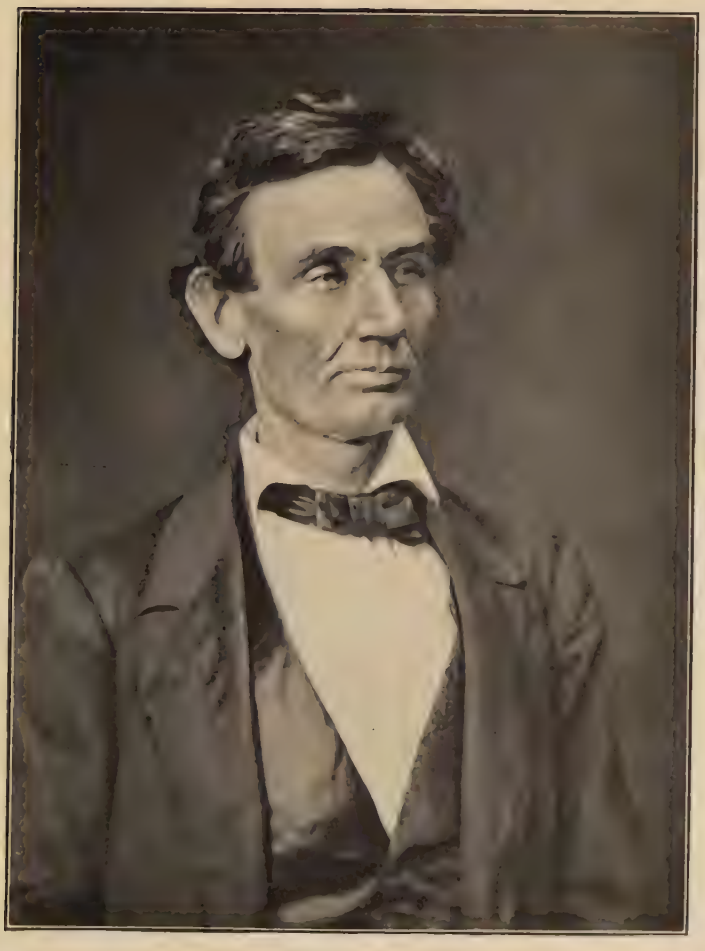
inheritor of the constitutional traditions of the Federalists and the Whigs, but it was also much more. It looked towards the future rather than to the past. It at once drew to itself groups of Democrats who were opposed to their party policy in reference to the extension of slavery, as well as the Free-soilers of whatever origin. On the other hand, large numbers of former Whigs who put local interests and the protection of slavery first, now went formally over to the Democrat party. In this way was created the beginnings of that ruling party alignment in the United States which has persisted for three-quarters of a century. The Democrat party of to-day is in general the inheritor of the traditions of the anti-Federalist, the early Republican, and the states' rights Democrat parties of earlier years. It holds in reverence the names of Jefferson and Jackson, even when it departs most widely from their teachings. Similarly the Republican party is the successor of the Federalist and the Whig organisations, and the teachings of Hamilton, of Marshall, and of Webster are the rock upon which its foundations are built. So in the case of the Republican party, one must no longer inquire too curiously how true the party is in action to the principles which it professes and has so often declared.

So matters stood when the climax of the long struggle was forced through a declaration from a quarter wholly unexpected. The United States

Supreme Court had been under vigorous attack for some time from the antislavery leaders because of various decisions that it had rendered in interpreting the constitution and laws as these affected slavery. Now came, in the spring of 1857, quickly following upon the inauguration of James Buchanan as president, the decision in the Dred Scott case. The Kansas-Nebraska Act of 1854 had repealed the provisions of the Missouri Compromise of 1820, and the Congress was declared to be without authority to exclude slavery from any territory or state. Long before this the case of Dred Scott had appeared in the courts and for more than ten years had been a matter of litigation. The basis of the claim of Dred Scott, born a slave, was that a former master had taken him into Illinois, and from Illinois into a part of the Louisiana territory; that, therefore, under the provisions of the Northwest Ordinance of 1787 and of the Missouri Compromise Act of 1820, he became a free man and retained that status even when a later master took him back to the state of Missouri where slavery prevailed. Few cases have been the subject of more voluminous and more violent controversy, whether from the legal, the moral, or the political point of view, than the case of Dred Scott. On its final hearing before the Supreme Court of the United States, Chief Justice Taney and five associate judges concurred in the opinion not only that a negro could not be a citizen

of the United States, but also that Congress had no power to exclude slavery from the territories. This decision enormously strengthened the position of the defenders of slavery and made it apparently impregnable. They had gained their point in the forum of Congress; they had elected Buchanan to the presidency over John C. Fremont, first candidate of the new Republican party, having at the same time chosen a majority in both houses of Congress; and they had now gained their point once more in a decision of the court of last resort, which settles the public law of the United States subject only to an appeal to the people. It was that appeal which promptly followed and which, under the leadership and guidance of Abraham Lincoln, ended in the preservation of the nation's unity and power, in the total abolition of slavery, and in making citizenship national. Despite appearances it was proved that the spirit of Washington, of Hamilton, of Marshall, and of Webster was not dead and that their teachings had not been in vain. Abraham Lincoln called this spirit and these teachings to witness as he undertook his epoch-marking fight for the preservation of the Union.

It is not easy for an American to write or to speak of Abraham Lincoln without emotion. The day will doubtless come when, as in the case of other great figures in history, the spell of his personality will be broken and the tragedy of his taking



ABRAHAM LINCOLN

1809–1865

From a photograph by Hesler, copyrighted by George B. Ayers

off will be but a mark in the annals of time. That day has not yet come. Lincoln is still too near. His words and his influence are still too real to permit a cold, dispassionate examination of his mind and character. Lowell's noble portrait of him in the "Commemoration Ode" is lovingly dwelt upon by Americans old and young as that of some one the hem of whose garment they themselves have touched. Volumes have been expended upon Lincoln and many more volumes will follow, but the subtle combination of pathos and of power that was his, together with the inexhaustible patience, kindly humour, shrewd common sense, and the fixed habit of turning his

> Keen untroubled face
> Home, to the instant need of things

must be felt and cannot be adequately described. The fact that Lincoln was a strong partisan but is now claimed by all parties alike, that he commanded the armies and navies in defence of the Union in a four years' struggle of great intensity with the Southern Confederacy and is now honoured in the South as well as in the North, that he came of the humblest beginnings and had an instinctive sense of the needs and hopes of the so-called common people and is now honoured everywhere without distinction of class or rank, offers some indication of the measure of the personality that saved the Union only to fall at the hand of an assassin.

Lincoln was going the way of so many other Americans of apparently average ability and average opportunity when the call came that made him the people's protagonist of progress. He had served a short term in the House of Representatives, was making his reputation as a member of the bar, taking an interest in politics and occasionally delivering political speeches but without any thought or purpose of returning to public life. He had made for himself a wide circle of admiring friends, and his companionship was eagerly sought wherever he went on circuit in the practice of his profession. During these years Lincoln became a hard student and much more than made up for his lack of early formal training in school or college. The policies and the speeches of Douglas came to Lincoln first as an invitation to debate them before the people of Illinois, and then as a trumpet-call to wage battle for the right as he saw it before the people of the nation. Not only was Lincoln looked to by his neighbours for an answer to each important speech by Douglas, but it soon came to be recognised that he was the only public man who could answer Douglas. Step by step, then, a controversy was staged in the state of Illinois with the whole country for an audience. The Lincoln-Douglas debates took place in August, 1858, at the towns of Ottawa, Freeport, Jonesboro, Charleston, Galesburg, Quincy, and Alton in the state of Illinois. Both men were the candidates of

their respective parties for the office of United States senator, and the evenness of the contest may be inferred from the fact that the Republicans polled some 125,000 votes, while the Douglas Democrats polled about 121,000 votes, the Buchanan Democrats having little more than 5,000 votes. The Democrats, however, elected a majority of the legislature, which under the provisions of law at that time chose the senator, and Douglas was elected over Lincoln by a vote of 54 to 46. All things considered, this was a very remarkable exhibition of Lincoln's power and influence, and it paved the way for the election of 1860. Month by month Lincoln became increasingly prominent in the mind of the country, and while the party leaders were not yet prepared to put him in the same class with Seward and Sumner and Chase, they were every day taking him more seriously as a political factor. He received numerous invitations to make public addresses, of which the most fateful was that to speak at Cooper Institute in the city of New York. There on February 27, 1860, Lincoln for the first time faced an Eastern audience of influence and distinction. William Cullen Bryant was in the chair and David Dudley Field escorted the speaker to his place upon the platform. The representative men of affairs and leaders of opinion in New York were grouped before him. Lincoln rose to the occasion with one of his greatest speeches. It was simple, it was direct, it was con-

vincing. He told no anecdotes and he cracked no jokes. He was serious and in deadly earnest. The temper of the speech was excellent, and it was the general public judgment that no one had ever made a greater impression upon a New York audience on the occasion of his first appearance. In this speech Lincoln amply justified the opinion of Horace Greeley that he had trained himself to be the foremost convincer of his day. He was the one who could do his cause more good and less harm by a speech than any other living man.[1] Lincoln's place in the nation's thought was now secure, and it need cause no surprise that when the national convention of the Republican party met at Chicago in May, 1860, Lincoln was nominated for the presidency over seasoned party leaders like Seward and Chase. The simple truth was that the delegates to that convention believed that Abraham Lincoln more completely represented their convictions and their hopes than any other man whose name was before them. Lincoln had expressed himself as feeling his lack of qualifications for the great executive office of the constitution; but he soon fell under the spell of the spirit of political activity and political ambition and threw himself into the contest with all his might.

For a short time the centre of controversy was transferred to the national convention of the Demo-

[1] Benton, Joel, *Greeley on Lincoln* (New York, 1893), p. 23.

crat party, which met at Charleston, South Carolina, on April 23, 1860. The proclaimed policies of Senator Douglas which Lincoln had debated so exhaustively in Illinois, had split the Democrat party in two parts, and it remained to be seen which of the two was the greater. President Buchanan, although a Pennsylvanian, was in complete sympathy with the Southern wing of the Democrat party, whose earlier demands had now been increased by the insistence that negro slaves were property and that the obligation of the federal government to protect that property, like all other, must be recognised. It was asserted that this situation had existed in the earlier history of the government.[1] The Northern Democrats were, on the other hand, largely following Douglas in his theory of popular sovereignty as to slavery, which theory was quite as offensive to the Southern members of his party as it was to the Republicans. On this rock the Charleston convention and the Democrat party split. Reassembling after an interval at Baltimore, it was found that the breach could not be bridged. One section of the Democrat party nominated Douglas for the presidency, while the other named John C. Breckenridge of Kentucky. A fourth candidacy was presented to the electorate through the nomination of John Bell of Tennessee for president, and Edward Everett of Massachusetts

[1] Senator Jefferson Davis in the Senate, May 17, 1860—See *Congressional Globe*, Thirty-sixth Congress, First Session, p. 2155.

for vice-president on an ostrich-like platform which, despite all that had happened and all the signs of the times, endeavoured to ignore the question of slavery entirely. Before the votes were cast it was generally conceded that Lincoln would be elected. His personal appeal to the people was too strong to be successfully resisted, and in addition the once all-powerful Democrat party was hopelessly divided. The slave-owning states made no secret of their intentions. The attractive and persuasive William L. Yancey of Alabama had for some time been accustoming them to the notion of secession from the Union if a president out of sympathy with their views should be chosen. Before election day in November several governors of Southern States were in correspondence and conference as to how best to take the joint action which seemed to them essential when Lincoln's election should be formally declared. Much is made of the fact that Lincoln was what is called a minority president; in other words, that while he had a clear majority of electoral votes he had only a plurality and not a majority of the individual votes cast. The more closely the returns of that presidential election are examined the less the significance which is found to attach to this statement. By no possible twisting or turning could any of the candidates other than Lincoln have been chosen president.

The slave-owning states did not wait for any

public act on Lincoln's part, or even for his inauguration. On the very day following that on which the electoral vote of South Carolina had been cast by its legislature for Breckenridge, the subject of withdrawal from the United States was taken up and an act passed calling a state convention to meet at the capital on December 17. The governor of South Carolina in his message to the legislature, while he conceded that no provision is made in the constitution for dissolving the Union, pointed out that it is very probable that the patriots who framed that instrument had no idea that "a loathsome fanaticism, pandered to by Northern politicians, would ever make it necessary for the safety of the South that they should dissolve the compact on account of its violation by the other section of the Confederacy."[1] History was made very fast. On December 20 by unanimous vote of the convention an ordinance was passed "to dissolve the Union between the State of South Carolina and other states united with her under the compact entitled the Constitution of the United States of America." A few days later the convention adopted an address to the people in explanation and defence of this extraordinary action. In this address it was asserted that fifteen of the states had for years refused to fulfil their constitutional obligation in respect of the return of fugitive slaves. Throughout the docu-

[1] *American Annual Encyclopædia* (New York, 1863), vol. I, p. 647.

ment slavery was put in the forefront of the argument, and secession was rested wholly and entirely upon the intention to preserve the institution of slavery. The party which had chosen Lincoln to the presidency was denominated a sectional party which, while observing the forms of the constitution, had subverted that document. The declaration concluded with the statement that the state of South Carolina had resumed its position among the nations of the world as a free, sovereign, and independent state, with full powers to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent states might of right do.[1] This was certainly self-determination with a vengeance.

Action similar to that of South Carolina was quickly taken by other slave-owning states, and on February 8, 1861, a constitution for the provisional government of "the sovereign and independent states of South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana" was ordained and established at Montgomery, Alabama.[2]

On March 2, 1861, the state of Texas adhered to this provisional constitution. On March 11, 1861, one week after the inauguration of Lincoln, the constitution of the Confederate States was unanimously

[1] *American Annual Encyclopædia* (New York, 1863), vol. I, p. 652.
[2] Richardson, James D., *Compilation of the Messages and Papers of the Confederacy*, 2 vols. (Nashville, 1906), vol. I, p. 3.

adopted by a congress sitting at Montgomery, Alabama, in which all of the slave-owning states just named were represented. This constitution closely followed the constitution of the United States in its form and general terms, but in its preamble the fact that it rested flatly upon the foundation of Calhoun's teachings was made clear in these words: "We, the people of the Confederate States, each State acting in its sovereign and independent character, in order to form a permanent federal government . . . do ordain and establish this Constitution for the Confederate States of America." [1]

It may well be asked, what was the government of the United States doing during the four months which intervened between the presidential election of 1860 and Lincoln's inauguration as president? What Andrew Jackson did in the face of nullification in 1832, James Buchanan carefully refrained from doing in the face of secession in 1860. Members of his cabinet were themselves, while holding high administrative office under the government of the United States, important factors in the movement to dissolve the Union. The powers of the national government were not only paralysed by its highest administrative officers but by the futile inconsequence of the intellectual and moral processes of the President of the United States. Buchanan had

[1] Richardson, James D., *Compilation of the Messages and Papers of the Confederacy*, 2 vols. (Nashville, 1906), p. 37.

many attractive qualities and was himself an accomplished gentleman, but he was wholly without the stern and vigorous determination of mind and character which had marked Andrew Jackson and made him famous. Buchanan had come to his high place through the support of the elements in the country which were now making for disunion, and he was powerless to combat them even had he had the disposition to do so. The question came to a head, quite naturally, over matters relating to the control and defence of property in Charleston, South Carolina, belonging to the national government, including the forts in the harbour. Had Buchanan been able and willing to follow the example of Jackson, subsequent history might have been written very differently; but being only Buchanan, the heights which Jackson had easily scaled were too much for his poor and irresolute powers. His message to the Congress in December, 1860, was a monument of incapacity and inconsequence. Senator Seward, of New York, is reported to have said, with characteristically caustic wit, that Buchanan in that message had proved two things: first, that no state has the right to secede unless it wishes to, and, second, that it is the president's duty to enforce the laws unless somebody opposes him.[1] Of course such an attitude on the part of the president gave satisfaction

[1] Nicolay, John G., and Hay, John, *Abraham Lincoln: a History*, 10 vols. (New York, 1890), vol. II, p. 371.

to no one. The nation was faced with the prospect of an armed rebellion against its authority in order to divide it into two parts. It was a time for determined action and not for futile theorising. The mind of the South was made up and was not to be changed by anything that Buchanan might say; the spirit of the North was being aroused to high patriotic fervour and could not listen with patience to Buchanan's fiddling while Rome was burning. The leaders of Southern opinion, who were almost without exception men of keen intelligence and quick logic, divined at once that the national government sooner or later would make the attempt to coerce South Carolina under the pretence of protecting the property of the United States lying within the limits of that state. Yet when the commandant of the forts in Charleston harbour asked the administration for reinforcements, they were denied. So matters drifted during the remaining weeks of Buchanan's term of office. The Southern Confederacy was being brought into existence as a new nation through disruption of the United States, while the government of the United States looked helplessly on. Both the brains and the character seemed to be on the side of those who would divide the nation.

The observer from another planet might well have been forgiven had he reached the conclusion that the work of the nation-builders had been in vain, and that the fabric which they had so labori-

ously reared was about to fall in helpless and pathetic ruin. The names of Washington and Hamilton and Madison and Jefferson, of Marshall and Webster and Jackson were no longer on every lip, and their teachings and their example alike appeared to be forgotten. The South was substantially a unit in its grim determination to divide the Union. The North was anything but unanimous as to the steps that should be taken, and even as to whether it was worth while to make a struggle to preserve the Union in the face of the irrepressible conflict which was so widely proclaimed to exist. Voices were raised even in support of the suggestion that the states west of the Ohio River should constitute themselves into a separate union and thereby throw off any future dependence on the states either of the East or of the South. It is not easy to put one's self back into the troubled, uncertain, and irresolute environment of the early months of 1861. For that reason it is almost impossible to measure the magnitude of the task which faced Abraham Lincoln when, on March 4, in the presence of the great assemblage gathered before the east front of the Capitol, he took the oath as sixteenth president to preserve, protect, and defend the constitution of the United States to the best of his ability. As the fates would have it, this oath was administered to Lincoln by the very chief justice whose mind had conceived and whose hand had written the decision in the Dred Scott case.

The bearing of Lincoln between the time of his election and his inauguration was beyond criticism. He let fall no word that might increase the nation's difficulties, and he showed himself calm and considerate as well as fully appreciative of his gigantic task. His inaugural address was an appeal to the seceding states not to treat the new administration as an enemy to their peace and security, to accept the permanence of the Union and the conditions as to slavery that were contained in the constitution itself. He definitely disclaimed any intention to interfere, directly or indirectly, with the institution of slavery in the states where it then existed, and expressed the belief that he had no lawful right to do so. He went even farther and gave his approval to the so-called Corwin proposal to amend the constitution by adding an express provision to the effect that no amendment should thereafter be made that would authorise or give to Congress the power to abolish or interfere within any state with the domestic institutions thereof. This proposed amendment was passed by the Senate and House of Representatives of the Thirty-sixth Congress during the closing hours of its session and but a short time before Lincoln's inauguration, as a last futile effort to avoid the dissolution of the Union by making a compromise with slavery. Strange to say, this proposed amendment was promptly ratified by the states of Ohio and Maryland through

their legislatures, and a year later by the state of Illinois through a convention.

The position which Lincoln took as to slavery in his inaugural address followed the declarations of the platform of the Republican party which had placed him in nomination. It was anything but satisfactory to the abolitionists, but it undoubtedly represented the prevailing temper of opinion in the Northern States at the time. In passing to a consideration of that question which was at the moment most pressing, that of secession, Lincoln declared that he would faithfully obey his oath to execute the laws of the Union in all the states, and that in so doing there would be no bloodshed or violence unless it was forced upon the national authority. The closing sentences of the inaugural address were a tender and moving appeal to the people of the South to turn back from the path upon which they had entered.

Even before Lincoln was inaugurated, the Southern Confederacy had been formally organised as a national government. Jefferson Davis of Mississippi, its president, had on February 27, 1861, officially addressed to the President of the United States a letter presenting one of the commissioners appointed to establish friendly relations between the Confederate States and the United States. So thoroughly was the Confederate Government in working order that on February 28 President Davis

sent to the Confederate Congress his first veto message, which oddly enough in view of all the circumstances, recorded his objections to a bill which he held would, if enacted into law, tend to re-establish the slave-trade.

On each side the constitutional lawyers were busy. The South proposed to strike no blow except to repel what it would hold to be forcible invasion. The national government, on the other hand, would strike no blow except in defence of the laws of the United States should the execution of these laws be forcibly challenged. The clash must come, therefore, if at all, over some concrete act which the South would regard as forcible invasion, and which the national government would look upon as enforcement of law. Both sides marked time, and there were still many who held to the belief that some new Henry Clay would appear upon the scene and even at this late day effect a compromise that would avert or at least postpone disaster. Lincoln himself had first cherished the feeling that a peaceable way out of the dilemma would be found and that armed hostilities might be avoided. After a series of negotiations and backings and fillings of various kinds, which now seem curiously futile, the blow was struck when the state of South Carolina, or the Confederacy of which it was a member, fired upon Fort Sumter in Charleston harbour on the early morning of April 12, 1861. The maintenance there by the na-

tional government of a garrison and the attempt to provision it and to continue to hold possession of the fort, were the overt acts of invasion which led to hostilities. Two days later the news that Sumter had been fired on rang through the country, and each hour made it more certain that civil war, of which no man could see the end, had begun. Lincoln's attitude was admirable. Since an unprovoked assault had been made against Fort Sumter for the purpose of driving United States authority from it, he held himself at liberty to repossess if he could this place and any other place belonging to the national government which might be formally seized by the Confederacy. He stated quietly that to the extent of his ability he would repel force by force. On April 15 Lincoln issued his call for 75,000 volunteers for three months' service, and summoned the Congress to meet in special session on July 4. He commanded all treasonable combinations to disperse within twenty days, and gave notice that it was the object of this military force to repossess the forts and other places seized from the national government.

Two days later Jefferson Davis, as President of the Confederate States, issued a counter-proclamation announcing that since the President of the United States had declared his intention to invade the Confederacy with an armed force for the purpose of capturing its fortresses and thereby subvert-

ing its independence and subjecting its people to the dominion of a foreign power, it became the duty of the Confederate Government to repel the threatened invasion and to defend the rights and liberties of the people by all the means which the laws of nations and the usages of civilised warfare placed at its disposal.[1]

The power of the logic of Hamilton and Marshall and Webster was now to be tested by the sword. Could the nation which they had helped so powerfully to build maintain itself in the face of this threatened disruption, or must it fall apart into two or even three sections, each to go its own way? It would be useless and tedious to follow the logic of the debating lawyers and constitutional expounders as to whether the Civil War was a rebellion, or as to whether the national government possessed the right to march troops into and across a state without its consent, or as to whether secession was mere treason or rose far above that to a legitimate attempt at self-determination. The stern fact is that two great and relatively homogeneous bodies of Americans were at war over the meaning of their form of government and the interpretation of the written document upon which that government rested. Until the great war of 1914–1918 the struggle which followed was without a parallel in history for the

[1] Richardson, James D., *Compilation of the Messages and Papers of the Confederacy*, 2 vols. (Nashville, 1906), vol. I, p. 60.

number of men engaged or for the area over which military operations extended. The hostilities and their consequences quickly affected European nations, particularly Great Britain and France, and foreign complications were never more than a very short distance below the horizon of actual fact. The laws of nature and of nation-building in accordance with nature were on the side of the national government. The Confederate States had neither that ethnic nor geographic separateness which must underlie and accompany any effort at nation-building which is to be both successful and permanent. Looked at from any point of view the Southern Confederacy was not and could not be made a new unit. It was a dissident minority of a larger unit. Moreover, the national government had the advantage of numbers, of economic resources, and of relatively uninterrupted commerce with foreign nations. The Confederate States might be subjected to blockade, and the diversity of their natural resources bore no comparison to that of the states which remained in the Union. If valour and devotion alone were to decide the issue, it might have remained forever in the balance. There were no more chivalrous commanders and no more self-sacrificing soldiers than those who wore the grey uniform of the Confederate States, but their cause was lost from the beginning, no matter how nobly they might fight, not only because it was based upon the institution of slavery,

but also because it ran counter to the operation of those great natural laws which, through the centuries, invisibly shape the conduct and the lives of men.

The Confederate States were bent on dissolving the Union in order to protect slavery; Lincoln was bent on preserving the Union whether slavery continued to exist or not. He made this position admirably clear in a notable and oft-quoted letter to Horace Greeley, written in reply to one of that powerful journalist's angry complaints against his official conduct, particularly as related to the toleration of slavery. This letter bore date of August 22, 1862, and contains this striking passage:

> I would save the Union. I would save it the shortest way under the Constitution. The sooner the national authority can be restored, the nearer the Union will be "the Union as it was." If there be those who would not save the Union unless they could at the same time save slavery, I do not agree with them. If there be those who would not save the Union unless they could at the same time destroy slavery, I do not agree with them. My paramount object in this struggle is to save the Union, and is not either to save or to destroy slavery. If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. What I do about slavery and the coloured race, I do because I believe it helps to save the Union; and what I forbear, I forbear because I do not believe it would help to save the Union.[1]

[1] Nicolay, John G., and Hay, John, *Complete Works of Abraham Lincoln*, 2 vols. (New York, 1902), vol. II, pp. 227–228.

At the time that this letter was written Lincoln had a policy of emancipation in mind as a war measure, but he was withholding its announcement until the course of the war brought what he thought would be a favourable opportunity to promulgate it. Influential delegations showered their petitions and arguments upon Lincoln, but he was as firm as he was patient. He had made up his mind how the Union was to be saved, and he did not intend to change it to please others who were without his official and overwhelming responsibility.

Following the battle of Antietam in the autumn of 1862, with its resulting victory for the Union arms, the President felt that the fitting moment had come. He read his proclamation to the cabinet, and on September 23 published it to the country. By the terms of this proclamation, issued by the president under his authority as commander-in-chief of the army and navy of the United States, all persons held as slaves within any state or designated part of any state which, on January 1, 1863, should be in rebellion against the United States, were to be then, thenceforward, and forever free. The effect of this proclamation was to rejoice the abolitionists, still further to strengthen the bitterness of the people in the Confederate States, and to arouse mingled feelings among the inhabitants of the border states which, while permitting slavery, had remained loyal to the Union. The tide of battle ebbed

and flowed, and it was not until the early days of July, 1863, when the conflicts at Vicksburg in the South and at Gettysburg in the North resulted in two notable victories for the Union armies, that the clouds of discouragement and depression began to lift. Lincoln's discovery of Grant and his putting him in chief command of the Union forces hastened the end. The waning material and economic strength of the Confederacy could not longer withstand the shattering blows of Grant and the dividing march of Sherman through the very heart of its territory.

The great drama came to a close in effect, if not in actual fact, when on April 9, 1865, almost four years to the day after Sumter was fired on, General Robert E. Lee met General Grant at Appomattox Court House and surrendered the army of northern Virginia. Five days later, serenely happy in the triumph of the Union cause but already thinking chiefly of the grave problem of healing the wounds of the war and of rebuilding the broken nation, Abraham Lincoln fell by the hand of an assassin. "They slew the noblest and gentlest heart that ever put down a rebellion upon this earth," cried General Garfield to a grief-stricken audience of men and women in the city of New York.[1] Truly it seemed that the light had gone out and that the nation was left to stumble in darkness. Lincoln and Lincoln

[1] New York *Daily Tribune*, April 17, 1865, p. 3.

alone could have accomplished what seemed to be the impossible and have won the war without sacrifice of principle or without moving from the firm ground on which he had taken his stand. Lincoln and Lincoln alone could have withstood the torrent of calumny, of abuse, and of ridicule that poured over him both from the high-minded who could not understand, and from the malicious who did not wish to see. Lincoln and Lincoln alone had a place in his heart for the states that had formed the Confederacy, and in his head a plan for their restoration to the Union without unnecessary humiliation. Lincoln and Lincoln alone could have withstood the beating of the waves of partisan feeling and personal ambition, of greed, and of selfishness that were aroused by the storms of war. Providence ruled otherwise. Lincoln, who had been a private citizen of the state of Illinois at fifty-two, had finished his work as President of the United States at fifty-seven; those five short but crowded years had lifted him up to the place where the immortals dwell.

In quick succession three amendments to the constitution were adopted in order to write into the organic law the results of the military struggle. By the provisions of the Thirteenth Amendment, proclaimed in 1865, slavery was abolished within the United States or any place subject to their jurisdiction. By the provisions of the Fourteenth Amendment, proclaimed in 1868, citizenship was made na-

tional and given the protection of the national government. By the provisions of the Fifteenth Amendment, proclaimed in 1870, both the United States and the several states were forbidden to deny the right of any citizen to vote on account of race, colour, or previous condition of servitude. This amendment gave to the former slaves the right of suffrage.

What had been a broken and distraught nation in 1861 was ten years later in the throes of a reconstruction which, however stained by ignorance, by greed, by malice, and by wrong-doing, paved the way to a united nation as all the great nation-builders had conceived it. The dream of the constitution-makers had come true, and the law of Marshall and the logic of Webster were now possessions not of a party or of a section but of a nation which had passed through the valley of the shadow of death. It was now established beyond peradventure that the United States is a nation and not a confederation of nations or states; that sovereignty rests wholly and exclusively in the people of the United States, and that sovereignty means, as Lincoln defined it in his message to Congress on July 4, 1861, "a political community without a political superior"[1]; that the sovereign people of the nation are the source of all authority, and that they bestow and distribute the powers of government upon and among the different

[1] Nicolay, John G., and Hay, John, *Complete Works of Abraham Lincoln* (New York, 1902), 2 vols., vol. II, p. 62.

organisations which they create or permit to be created, and that no individual or local government or section has any political rights as against the people of the entire nation; that the attempt to resist by violence the administration of the nation's laws or to take themselves out from under the supremacy of the national government is rebellion on the part of those who so act, and that therefore neither nullification by any state government nor secession on the part of any state is permissible under the political system of the United States; that the ultimate interpreter of the constitution is the national government set up thereby and not the several commonwealths or any of their representatives or agencies of government; that as between the different departments of the national government the supreme court is the final interpreter of the meaning of the constitution so far as individual rights are concerned; that the supreme court is to decide whether a given question at issue is judicial or political, in which latter case its settlement is relegated to the legislative and executive branches of the government under the terms of the constitution; and that civil rights are national in their origin and are placed under the protection and defence of the national government. So quickly does war act as the solvent of the difficulties that had perplexed legislatures and courts and the people for two generations.

In the history of this nation-building the years from 1789 to 1820 may be called the period of laying the foundations; the years from 1820 to 1860 the years of the dominance of the slavery issue in the life of the nation; and the years from 1860 to 1876 the period of national defence and reconstruction after the greatest of civil conflicts. Had Lincoln been able to dominate the years of reconstruction as he dominated the years of national defence, much unhappiness and not a little disaster might have been avoided.

The passions aroused by war do not quickly abate, and only a calm, serene spirit such as that of Lincoln could hasten the quieting of the tossing waves of conflict. The effect of the blunders of the period of reconstruction has not yet passed away, although fifty years and more have come and gone. Intellectually and economically the people of the states that were members of the Confederacy are thoroughly united with the other states of the Union. Politically they stand largely separate for the reason that the Fifteenth Amendment, which no attempt is made to enforce in those states where its provisions run counter to public opinion, appears to the white citizens to endanger their entire civilisation. They have, therefore, with the tacit consent of the nation, sought to protect themselves against such a disaster by methods which some regard as legal, others as extra-legal, and still others as illegal.

The time may perhaps come when these states will be willing to establish an educational and property qualification for the exercise of suffrage which will make no distinction between white and coloured, but which will, in the nature of the case, leave the white citizens in the majority. Until some such step as this is taken by the people of those states themselves, the present conditions of political separateness, which are in no wise fortunate, seem likely to continue.

Save for this one fact the building of the nation was complete when reconstruction was accomplished and the states which had seceded had resumed their place in the Union. Quickly Southern men who had been most active in making and managing the Confederate Government and in commanding the Confederate armies were chosen to the Congress of the United States as members of the Senate or House of Representatives, were invited to the President's cabinet, and were placed upon the United States Supreme Court.

Therein was the very triumph of the nation-builders. So often was the frail bark which carried the hopes of the American people so nigh to shipwreck that we may well wonder that its voyage was accomplished at all. The magisterial serenity and poise of Washington, the vision and tireless energy of Hamilton, the sagacity and plodding painstaking of Madison, the philosophy and democratic faith of

Jefferson, the legal wisdom and inexorable logic of Marshall, the magic and persuasive eloquence of Webster, the stern determination of Jackson, and the unruffled calm, the inexhaustible patience, the sterling common sense, and the quenchless courage of Lincoln were all needed for the task. Others, many others, did bravely and well. The name of their helpmeets is legion, but these men by reason of the times in which they lived, the conditions with which they had to deal, and the powers of mind and character which they displayed are in the front rank as builders of the American nation. Perhaps, as John Quincy Adams said, "The constitution itself had been extorted from the grinding necessity of a reluctant nation"[1]; but if so, the reluctance had been overcome by the facts of history, and the grinding necessity had given way to joyous confidence and faith.

[1] Adams, John Quincy, *The Jubilee of the Constitution:* A Discourse Delivered at the Request of the New York Historical Society in the City of New York on Tuesday, the 30th of April, 1839 (New York, 1839).

VII

FIFTY YEARS OF GROWTH AND CHANGE

Delivered at the University of St. Andrews, June 6, 1923,
and
at the University of Leeds, June 11, 1923

FIFTY YEARS OF GROWTH AND CHANGE

The immediate issues which led to the Civil War, as well as most of those that grew out of it, were settled a half-century ago. From a political viewpoint the nation as seen by the vision of its founders was then not only built, but had expanded across a continent which in their day had been an unbroken wilderness and withstood the test of a civil war the fury and determination of which they could in no wise have foreseen. While this legal and constitutional process had been going forward and absorbing a large share of public attention and public effort, the content of the nation's life had been growing rapidly deeper, richer, and more varied. It had produced a literature which, beginning with historians and divines, had moved quickly into the fields of fiction, poetry, and the drama, had reached high-water mark in the sober and humane philosophy of Emerson, and had made contributions of great and unique originality in Poe, Whitman, Bret Harte, and Mark Twain. Whittier, Longfellow, and Lowell had put into verse the reflection and the aspiration of the new nation. Hawthorne and Cooper had in quite different ways told part of its story in fiction. Science, somewhat slower to get

under way, was finding itself at the close of the Civil War period, and the doors of invention and discovery were everywhere opening to its magic touch. A profound and almost pathetic faith in the power of formal education to build character, to broaden intelligence, and to insure good citizenship led to the rapid multiplication of schools and colleges in every community and to astounding sacrifices for their maintenance and development. There was no time through all the years of storm and stress of nation-building when the note of idealism was not to be heard above the uproar. It was now religious fervour, now zeal for the abolition of slavery, now energetic efforts to extend and expand educational opportunity, and now unwavering faith in the nation and its mission, which shaped literature, moulded science, and inspired public effort of a hundred different kinds. The call of the West, with its invitation to an atmosphere and a life of boundless opportunity and abounding freedom, kept eager and hardy men and women tramping westward in search of the pot of gold that lay at the rainbow's end; and time and time again they were rewarded by finding it.

Of all the changes, the greatest were those in the fields of industry, commerce, and transportation. The development of the factory system and of many different kinds of manufacture multiplied and increased the importance of the towns and cities. Expanding commerce greatly added to the activities

as well as to the population of the chief seaports and of those communities which occupied points of special vantage in the interior of the country. The railway brought the farmer of the Middle West in close contact with the manufacturer and trader of the Atlantic coast, while the telegraph appeared to destroy both space and time. With the Civil War won, slavery abolished, and the question settled as to the character of the federal government, the nation turned its attention to material things. It was bent on building railways and canals, on developing manufactures, on opening new areas of agriculture, and on providing in fullest possible fashion for the multiplying wants of a rapidly growing people. Its absorption in domestic affairs was so great and the opportunity for the profitable employment at home of both capital and labour was so large that the people of the United States, particularly those not dwelling on the Atlantic seaboard, came to take but an incidental interest either in foreign trade or in what was happening abroad.

Immigration, which had been insignificant before 1820, began at that time rapidly to increase, and for a long time the incoming additions to the population were drawn chiefly from the familiar Teutonic and Celtic racial stocks. The failure of the German Revolution of 1848 and the almost contemporaneous famine in Ireland drove to America large numbers of men and women from those two

countries. While the Irish settled chiefly in the great cities of the East, many Germans found their way to the newer communities between the Ohio and the Mississippi, and became an important factor in the life of the states which occupy that territory. After the Civil War came a great change. The enormous industrial expansion of the United States and the multiplication of means of transoceanic travel brought greatly increased numbers of immigrants from parts of Europe that had not theretofore been represented in the population. Before the close of the nineteenth century the number of new arrivals each year from countries in eastern and southern Europe exceeded the number of those coming from all the countries of western Europe combined. The centre of European emigration to America, which in 1880 had been near Antwerp, had thirty years later moved across Europe to a point some miles southeast of Budapest. This change tells the story. The necessary result was a quick diversification of population, a greatly increased complexity of relationship between those who had come to live in the United States and those whom they had left behind in Europe, and a marked change in attitude towards fundamental matters of government and social order. The earliest Americans, as well as all subsequent immigrants from northern and western Europe, were accustomed to local self-government and to a very large degree of civil liberty.

They were self-reliant, individualistic, and ready to take chances and run risks in the hope of bettering their condition or of gaining new comforts for their wives and children. The additions to the population from eastern and southern Europe, however, brought with them a quite different background of experience. They had lived for the most part under some form of despotism, either local or national, and were accustomed to regard government at once as their tribal enemy and as the source of all possible protection and benefaction. Moreover, they tended increasingly to group themselves together whether in quarters of large cities, in certain districts or counties of states, or in areas including several states. Even to-day North Carolina is relatively untouched by this newer immigration, while the cities of New York, Cleveland, and Chicago are overwhelmed with it.

One result of this diversification of the population is shown whenever an international controversy arises in Europe. The American immigrants from the countries involved, or their descendants, are apt quickly to take sides as partisans of what they severally look upon as the motherland, and so reflect across the Atlantic in a small way the controversy or friction which may be endangering the world's peace 4,000 miles off. The American people of to-day have developed and are developing a greater unity in respect to their internal institutions and adminis-

tration than will for some time be possible in respect to their international policies and relationships. Every judgment passed as to the attitude of the government of the United States in respect to international relations must reckon with this basic fact.

If one looks for the controlling forces and movements of the past half-century in the life of the United States, he will find them, first, in that diversification of population which has just been mentioned; second, in the development of new economic problems arising out of the rapid growth of industry, commerce, and transportation, and of the increasingly complex relations between labour and capital; and third, in the interplay between these new economic problems and the causes that have brought them into being on the one hand, and the form and functions of the federal system of government on the other. If the political discussions and debates in the United States from 1789 to 1876 were primarily and chiefly constitutional, from 1876 to the present time they have been primarily and chiefly economic. The protective tariff, the monetary system, the growth of great industrial combinations, the railways as public servants, and systems and incidence of taxation have successively or together absorbed the public interest, divided political parties, and invited important changes in public policy. The question has constantly been asked whether a constitution framed towards the close of the eighteenth cen-

tury can prove itself adaptable, or be adapted, to the new and amazingly complex economic life of the twentieth century. The answer would appear to be both Yes and No. In form the constitution continues to meet the greatly changed needs of the people, and by several recent amendments has even bent its head to make possible the policies that were thought necessary because of these needs. On the other hand, the constantly broadening interpretation by the United States Supreme Court of the governmental powers granted by the constitution, when taken together with the amendments last adopted, certainly seems to change in important ways the provisions of the document agreed upon at Philadelphia in 1787. These changes, as is true of changes generally, provoke constant outcry and prophecies of disaster. These, however, need be no more distressing than they are new. Miss Harriet Martineau, who visited the United States nearly a hundred years ago, makes this record:

> The first gentleman who greeted me on my arrival in the United States, a few minutes after I had landed, informed me without delay, that I had arrived at an unhappy crisis; that the institutions of the country would be in ruins before my return to England; that the levelling spirit was desolating society; and that the United States were on the verge of a military despotism. This was so very like what I had been accustomed to hear at home, from time to time, since my childhood, that I was not quite so much alarmed as I might have been without

such prior experience. It was amusing too to find America so veritably the daughter of England.[1]

In point of fact, wise men had acted upon the hypothesis that all happenings in time and space are relative, long before Einstein had evolved his striking analyses and demonstrations. Whether progress is making in matters political, in matters social, or in matters moral, depends much more largely upon the goal towards which change is moving than upon the point from which it takes its departure. Many proposals which claim support and approval as evidences of progress are really marks of reaction of the most pronounced type. They are merely attempts, usually made in blissful ignorance, to try all over again experiments which have been fully tested in the life of men and their results written large in history. Similarly, some positions that are denounced as reactionary and obscurantist are often only attempts to defend for future use and wider application the hard-won results of experience in the task of building human institutions. If the question Why be asked and answered only with reference to the past, much will be left dark; if, on the other hand, the question Why be asked and answered with reference to the future, the path of progress will be greatly illumined. Those who would defend things just as they are must always be fearful

[1] Martineau, Harriet, *Society in America*, 2 vols. (New York, 1837), vol. I, 8.

and unhappy, since it is the law of life that things never remain as they are very long. The crucial question is not whether there shall be change, but rather whether that change shall be so guided and directed towards a sound ideal as to constitute progress.

There can be no doubt that many Americans in common with many in other lands have lost faith in liberty. That for which men struggled so violently in the eighteenth century appears in the twentieth to carry with it such inequalities and unevennesses in accomplishment and in reward as to make it no longer a thing good in itself. It is quite obvious that the possible abuses of liberty are severe and innumerable. It is obvious, too, that liberty may be accompanied with economic injustices, for which some remedy must be found. The crux of the present-day problem in the United States, as everywhere else in the world, is to preserve the essentials of liberty without the multiplication and the maintenance of injustice. That this problem has not yet been satisfactorily solved, or indeed far advanced towards solution, is made quite apparent by the clamorous and discordant voices that are heard on every side supporting diverse programmes of social, political, and economic action.

The sum total of the effects of these considerations has been enormously to increase the authority and administrative activity of the national government

in the United States. So far has the pendulum swung in a hundred years that those who a century ago could best defend the constitution by insisting upon the authority and prestige of the national government can now best perform that same service by insisting upon the authority and prestige of the state governments. So wise an observer as De Tocqueville, writing nearly a century ago, said:

> The Federal government is far removed from its subjects, whilst the provincial governments are within the reach of them all, and are ready to attend to the smallest appeal. The central government has upon its side the passions of a few superior men who aspire to conduct it; but upon the side of the provincial governments are the interests of all those second-rate individuals who can only hope to obtain power within their own State, and who nevertheless exercise more authority over the people because they are nearer to them.
>
> The Americans have, therefore, much more to hope and to fear from the States than from the Union; and, according to the natural tendency of the human mind, they are more likely to attach themselves strongly to the former than to the latter. In this respect, their habits and feelings harmonise with their interests.[1]

To-day this judgment is strangely out of harmony with the facts. The agents and officers of the national government are in almost every community and in almost every place of business. In number they have multiplied many fold, and consequently

[1] De Tocqueville, Alexis, *Democracy in America*, 2 vols. (New York, 1898), vol. I, p. 495.

the cost of maintaining the national government has advanced by leaps and bounds. Where fifty years ago the appearance of an official bearing credentials from Washington was a rare event and occurred only in connection with the postal service, the customs service, or the collection of internal revenue from tobacco and alcoholic liquors, that appearance is now an every-day occurrence. It may relate either to some large public interest or to the most intimate details in the administration of a national bank, a railway, an industrial corporation, or to the food and drink and medicine of the humblest household. The Sixteenth, or Income Tax, Amendment to the constitution placed new and almost limitless sources of revenue at the disposal of the national government, and correspondingly narrowed the area within which the several states might equitably and judiciously levy taxes for the support of their own governmental activities. Moreover, the fact that the national income tax, as now levied, is largely paid by special classes of the population, relatively small in number, and by particular sections of the country, has led to constant and continuing pressure upon the Congress to make large appropriations for all sorts of purposes that formerly lay far outside the range of possible action by the national government. Some of these purposes are undoubtedly judicious and in the interest of the nation as a whole, but the transfer of so much revenue and authority from the

state governments to the national government has had and is having a tendency to consolidate and enlarge the power of the national government at the expense of the states, which, if persisted in, must one day transform the federal republic into an imperial democracy. Submerging the state governments in the national government is as grave an infraction of sound constitutional theory as were the doctrines of nullification and secession. The federal republic established by the constitution would have been torn apart had secession established itself as sound doctrine; similarly the federal republic established by the constitution will disappear if the states continue to surrender their governmental prerogatives and become merely historical names like the kingdoms of Saxon England or the ancient provinces of France. A hundred years ago to contend for states' rights meant to attack and to weaken the constitution; to-day to contend for states' rights means to defend and strengthen the constitution.

The political system of the United States of America is neither an imperial state, nor a parliamentary state, nor a class-government state; it is a federal republic having a government of limited and carefully defined powers. If the proper balance be preserved between those powers which are delegated to the national government and those powers which are retained for the state governments, the federal principle will be protected and its usefulness

will grow with time and political experience. Undue centralisation of authority, with the bureaucratic system of control which this always brings in its train, will be avoided, as will undue weakening of the central authority, which is the forerunner of disintegration and even of separation.

Since the people of the United States are the sovereign power behind both the national government and the state governments, and since they have reserved for themselves a large area of civil liberty from which national and state governments are both excluded, it is plain that the popular mind and the popular will may express themselves in more than one way. It is the people of the United States who speak through the national government when that government acts in respect of matters confided to it by the constitution. It is the people of the United States who speak through the several state governments when these act in respect of matters reserved to the states. It is likewise the people of the United States who speak through their own non-governmental activities in respect of all those matters which they have reserved to themselves. In the United States many interests, many characteristics, and many responsibilities are national without being governmental, and especially without being within the proper purview of the national government. This point, so essential to clear thinking in regard to the American people and their government, is

hard for those brought up under a different social and political system to understand. Indeed it is by no means always understood in the United States. Lord Bryce grasped this essential fact when he pointed out the reasons why in the United States public opinion is exalted above the regular legally appointed organs of government.[1]

That national consciousness which Benjamin Franklin strove so hard to create and which Washington and Hamilton and Marshall and Webster did so much to develop, never became both real and vital until after the Civil War. The pride of achievement in education and in industry, the economic interdependence of the various sections of the country, the stupendous growth of untaxed and untrammelled trade between the several states, and the psychological effect of the little war with Spain and of participation in the great war against the Central Empires, have united to develop a national consciousness which is now as abounding as it was once deficient. This national consciousness, so excellent and so splendid in itself, naturally operates to exaggerate the importance and functions of the national government over against those of the state and local governments, and in so far operates to destroy the very ground on which it rests.

To the old doctrines of constitutional interpreta-

[1] Bryce, James, *The American Commonwealth*, 2 vols. (New York, 1912), vol. II, p. 271.

tion is to be added a new and very attractive one of recent origin, namely, that the people of the United States being a sovereign power, their national government possesses all the authority needed to represent that sovereignty in respect to matters both internal and external, whether such authority be expressly conferred by the constitution or not. The United States Supreme Court in a striking opinion rendered in 1907 refused to accept this new doctrine of constitutional interpretation, and definitely stated that "the proposition that there are legislative powers affecting the nation as a whole which belong to, although not expressed in the grant of powers, is in direct conflict with the doctrine that this is a government of enumerated powers."[1] Despite this authoritative decision, the doctrine of implied sovereignty has many defenders and advocates and is likely to make itself felt in the years to come.

For the last forty years the United States Supreme Court, following public opinion and pretty accurately reflecting it, has shown an increasing tendency to enlarge the scope of the powers of the national government by constitutional construction, as well as constantly to extend the authority of the national judiciary. Much of this has been due to the enormous growth of interstate commerce and the multiplication of questions arising therefrom. Since the control of interstate commerce is expressly confided

[1] *Kansas v. Colorado* (1906), 206 U. S., 89.

to the national government, it is clear that here was a foundation upon which to build a legitimate, if great, extension of national authority and responsibility. It is not easy to see how any commerce within the territory of the United States can long escape coming under control as interstate commerce, since the line between that commerce which is interstate and that commerce which is not, is difficult, if not impossible, to draw.

The constitution has not only been more liberally construed to the end that the power of the national government might be increased to meet new conditions and new problems, but the constitution itself has lately been four times amended, each time in a way that adds to the authority and prestige of the national government. The first ten amendments to the constitution, being a bill of rights, are to be considered a part of the original document.[1] The Eleventh Amendment, proclaimed in 1798, provided that the judicial power of the United States should not extend to any suit prosecuted against one of the United States. The purpose of this amendment was to allay the alarm that had arisen over the decision of the United States Supreme Court in a suit brought by Alexander Chisholm, a citizen of North Carolina, against the state of Georgia. A majority of the Supreme Court held that the action was properly brought and that the state was amenable. The

[1] See Chapter III, p. 122.

Eleventh Amendment quickly reversed this decision. The Twelfth Amendment, proclaimed in 1804, dealt with the method of choosing the president and vice-president, and was the outcome of the presidential elections of 1796 and 1800. The method of election contained in the original constitution resulted in 1796 in the election of John Adams, a Federalist, as president, and of Thomas Jefferson, a Republican, as vice-president; while in 1800 Jefferson and Burr having received an equal number of electoral votes, the election was thrown into the House of Representatives, with the result that Jefferson was chosen president, and Burr, a bitter political antagonist, vice-president. By the provisions of the Twelfth Amendment the president and vice-president are voted for separately, and it thus became possible for a political party to present candidates for both offices with a reasonable certainty that if the candidate for president was elected, his fellow partisan would be chosen vice-president at the same time.

So matters rested until after the Civil War, when the Thirteenth, Fourteenth, and Fifteenth Amendments were ratified and proclaimed to incorporate in the fundamental law the results of that great struggle. After the proclamation of the Fifteenth Amendment in 1870, no change was made in the text of the constitution until 1913, when the Sixteenth, or Income Tax, Amendment was proclaimed.

Three months later was proclaimed the Seventeenth Amendment providing for the election of senators of the United States by direct popular vote in the several states instead of by the state legislatures. In January, 1919, the Eighteenth, or Prohibition, Amendment was proclaimed, to become effective under its own terms in the following year. In August, 1920, the Nineteenth, or Woman's Suffrage, Amendment was proclaimed. Of these additions to the constitution, the Nineteenth Amendment rests upon the same basis as the Fifteenth, in that it asserts the right of suffrage to be within the control of the national government and extends that right to women, as the Fifteenth Amendment extended it to coloured men. The Seventeenth Amendment, governing the method of electing United States senators, is technically the least important of the four, since it establishes no new principle of government but simply alters the mode of choosing certain public officers. Whether senators of the United States are chosen by the legislatures of the states or by direct vote of the people of the states involves no question of principle but simply one of procedure. Whether the change is of public advantage or not depends upon the results which it produces in the intelligence, the dignity, and the representative character of the national government. On the other hand, the Sixteenth, or Income Tax, Amendment and the Eighteenth, or Prohibition, Amendment effect veritable political revolutions. Either would have

been unthinkable when the constitution was adopted. The advocates of the Sixteenth Amendment usually urged its adoption in order that the national government might have adequate resources at its command in time of emergency. Indeed if this amendment had not been in effect in 1917 it is difficult to see how the government of the United States could have met the cost not only of directly participating in the great war but of making advances to various allied governments. As might have been expected, however, no sooner was the Sixteenth Amendment adopted than the authority which it granted was used to establish a national income tax. Into the history and operation of that tax this is not the place to go. It may be sufficient to say that its weight rests with the utmost heaviness upon the whole nation, and that it is more than ever apparent that while the principle upon which an income tax rests is just and sound, the tax itself must be levied with fairness and without venom and with full recognition of the democratic principle that there should be universal participation in meeting the cost of government, if it is not to put a crushing burden upon all forms of industry and commerce. That the adoption of this amendment has vastly increased the opportunities of the national government for expenditure, and has multiplied many times over the urgent invitations to undertake such expenditure, may go without saying.

The Eighteenth, or Prohibition, Amendment introduced into the constitution a wholly new principle. Until its adoption the constitution had included a framework of government, an enumeration of powers and limitations, a mode of amendment, and a bill of rights. Now for the first time there was introduced into the fundamental law an act of legislation in the form of a drastic and uniform exercise of the police power. The novelty and the danger of this use of the amending power as well as the likelihood that it may defeat its own ends are fairly obvious. If the constitution had been amended by conferring upon the Congress the power to control, limit, or prohibit the manufacture, sale, or transportation of intoxicating liquors, there would have been no departure from the general theory of the constitution. Under the terms of such an amendment it might be expected that the Congress would from time to time deal with this subject in such ways as public opinion might require, and would always be free to amend or repeal any statutory provision which had been shown by experience to be insufficient or inexpedient. By putting this legislative act in the constitution itself, however, where to all intents and purposes it is beyond the reach of amendment or repeal (since one-fourth of the states plus one, no matter what their population, can prevent such amendment or repeal), a situation was created whereby large numbers of persons, feeling

certain that this new provision of law can neither be amended nor repealed, and dissenting entirely from the grounds upon which it was urged, more or less widely and more or less openly violate its provisions. The same thing would happen in the case of any sumptuary law attempted to be imposed upon a large, widely scattered, and heterogeneous population of different habits, tastes, and traditions. Herein lies the danger of attempting to correct or improve private morals and personal conduct by law, and especially by constitutional provision.

The instinct of every good citizen is to obey the law, whether agreeable or not, and to assist in securing its obedience by others. Obedience to law, however, is one thing, and enforcement of law is quite another. The former may come after a lapse of time; the latter may never be attainable. As a result of the adoption of the Eighteenth Amendment, the people of the United States are now confronted by the exceedingly difficult problem, some think the insoluble problem, of attempting to build up respect for law and obedience to law, while enforcing by the most extreme measures a particular provision of law which a large proportion of the population resent and are ready to defy. The resulting situation raises so many questions of political policy and of private and public morals that it seems bound to occupy a large measure of public attention for some time to come.

In addition to the nineteen amendments that have been made to the original text of the constitution, it usually escapes attention that four other proposals for amendment have been submitted by the Congress but have never been acted upon by a sufficient number of states to secure their ratification. Two of these have now been before the states for nearly 134 years, having been the first two proposals for amendment submitted by the First Congress on September 15, 1789. The third was submitted more than 113 years ago and is still pending. The fourth was submitted over 62 years ago, on the very day that Abraham Lincoln was to be first inaugurated president.[1] There is no prospect that any one of the pending amendments will ever be ratified by a sufficient number of states, and indeed the last-named, or Corwin amendment, has long since been displaced by the Fifteenth Amendment. It is something more than an inconvenience, however, that the constitution puts no time limit upon the period for which a proposal to amend it may remain unacted upon.

While the foreign policy of the United States has played a minor part in the process of nation-building, it has none the less been significant and important. The development of the foreign relations of the United States affords exceptionally interesting material for study; the Monroe Doctrine alone

[1] See p. 255.

offers subject-matter for a substantial volume.[1] From the time of the Revolution the colonists were most anxious that their position should be understood, and they sent their foremost men as commissioners and diplomatic representatives to the several European countries. Benjamin Franklin, John Adams, Thomas Jefferson, John Jay, John Marshall, John Quincy Adams, and Henry Clay were among those who carried on diplomatic negotiations in Europe on behalf of the government of the new nation. The treaty of 1785 with Prussia, which was negotiated by Franklin, Jefferson, and John Adams, is a model document, particularly in its provisions to protect religious freedom and to allow merchants time for settlement of their affairs in case of the outbreak of war.

The years of conflict between Great Britain and France, and the fact that through the excesses of the Revolution France had alienated a large part of the sympathy won by her powerful aid to the colonists in the war for independence, were reflected in American politics for a generation. It was these facts which suggested the warning given to the American people by Washington in his Farewell Address, that they should have as little political connection as possible with foreign nations. These

[1] Wharton, Francis, *Digest of the International Law of the United States*, 3 vols. (Washington, 1887), vol. I, pp. 268–298, and Moore, John Bassett, *Digest of International Law*, 8 vols. (Washington, 1906), vol. VI, pp. 368–604.

facts also inspired the declaration of Thomas Jefferson, made in his inaugural address, against entangling alliances with any nation. These two classic expressions by Washington and Jefferson must be read historically to be correctly understood. They must be taken in connection with the circumstances which gave rise to them. To quote them to-day in support or defence of a policy of American isolation from the economic, the social and political life of the world is not only to do grave injustice to both Washington and Jefferson, but to attempt to supply an artificial buttress to a policy which never has existed, which never could exist, and which ought not to exist. American isolation is a myth. The true fact is that the people of the United States have for reasons of internal history and policy frequently been for considerable periods relatively indifferent to happenings elsewhere in the world, but have never been and could not possibly be isolated from them. This is even more true of the life of the people in their unofficial activities than of the policies of the national government. The interpenetration of western Europe and the United States by reason of the influences springing from literature, from science, from the fine arts, from education, from travel, from immigration, and from commerce has always been considerable, and for at least a half-century past has been noteworthy and steadily growing. The people of the United States have felt that they

had a mission to perform in the world and have frequently found ways and means to proclaim that fact. Large and influential sections of the population have ardently supported every movement for the advance of liberty, for the protection of racial and religious minorities, and for the displacement of force by reason and the rule of law in settling differences between nations. Even when the national government has taken advanced ground in relation to these matters, it has still been markedly behind public opinion. There has been no time within a generation when American public opinion would not have supported a larger measure of co-operation with other nations in advancing civilisation and in promoting international peace than the government of the day was willing to offer, with the single exception of unreserved acceptance of the Covenant of a League of Nations which was included in the Treaty of Versailles. There have been few more striking expressions than that contained in the last and greatest speech of President McKinley, made at Buffalo, New York, on the very day before he fell at the hand of an assassin. His sentence "The period of exclusiveness is past" represented the forward movement under the guidance of experience and reflection of a mind that had long devoted itself untiringly to the task of upbuilding American industry and commerce, and of widening and strengthening the economic basis of the nation's life. Presi-

dent McKinley's vision saw that even for those who were most bent on developing the natural resources, the manufactures, and the commerce of the United States, the time had come for a larger view and a more generous measure of world participation. President Roosevelt, speaking before the Nobel Prize Committee at Christiania after his term of office had expired, was still more emphatic and more specific. He definitely urged treaties of arbitration, the further development of the Hague Tribunal, the limitation of armaments by international agreement, and the formation of a league of peace, not only to keep the peace among its members but to prevent by force, if necessary, its being broken by others.[1] It never occurred to President Roosevelt that American participation in these great enterprises would involve any derogation of sovereignty or any improper limitation upon the action of the national government. A nation, like an individual, has an intelligence and a conscience, and when it willingly puts its intelligence and its conscience at the service of mankind it is not contracting its sovereignty, but widening it. It is putting off national selfishness and taking on national selfhood.

In addition to the striking utterances of President McKinley and President Roosevelt, there are other significant declarations of American foreign policy

[1] Roosevelt, Theodore, *African and European Addresses* (New York, 1910), pp. 75–83.

made in the years before the passions aroused by the great war so gravely complicated the whole situation. The invitation to the First International American Conference, issued by James G. Blaine when secretary of state in 1881, and his addresses to the members of that Congress when it finally assembled in 1889, reveal a vision and a definite conviction as to the character of the relations between the several American republics which even now remain to be translated into actual public policy. The official instructions to the American delegates to the two Hague conferences of 1899 and 1907 and the reports of those delegates offer a programme and a promise which the great war may have postponed but which must one day be made good to the full. President Taft frequently and earnestly urged effective participation by the United States in a programme of international counsel and co-operation. The efforts made by President Wilson and his associates in connection with the settlement of the issues of the great war to bring the nations of the world into permanent and helpful association have not been lost.

In his inaugural address on March 4, 1921, President Harding used these impressive words: "We are ready to associate ourselves with the nations of the world, great and small, for conference, for counsel, to seek the expressed views of world opinion, to recommend a way to approximate disarmament and relieve the crushing burdens of military and naval

establishments. We elect to participate in suggesting plans for mediation, conciliation, and arbitration, and would gladly join in that expressed conscience of progress which seeks to clarify and write the laws of international relationship, and establish a world court for the disposition of such justiciable questions as nations are agreed to submit thereto. . . . Today, better than ever before, we know the aspirations of humankind and share them. We have come to a new realisation of our place in the world and a new appraisal of our nation by the world."[1]

Whatever mistakes of policy or of temper may be attributed to the opposing forces which struggled over the ratification of the Treaty of Versailles in the Senate of the United States, nothing is more certain than that the way will shortly open for the American people to resume their familiar progress towards a fuller and larger share of international co-operation, while at the same time enriching, not impoverishing, their national life and institutions, and gaining, not losing, power and influence in the many-sided life of men. Presidents McKinley, Roosevelt, Taft, Wilson, and Harding spoke the mind and voiced the aspirations of the American people. The policies which they advocated differed in method and in points of detail, but they were in agreement as to the ends to be achieved. Moreover, the international policy of the United States has been formally declared

[1] New York *Times*, March 5, 1921, p. 4.

by statute. On August 29, 1916, the Sixty-fourth Congress explicitly declared it to be the policy of the United States to adjust and settle its international disputes through mediation or arbitration, to the end that war might be honourably avoided; that the United States looked with apprehension and disfavour upon a general increase of armament throughout the world, but realised that no single nation could disarm; and that without a common agreement upon the subject every considerable power must maintain a relative standing in military strength. The Congress at the same time authorised and requested the president to invite at an appropriate time all the great governments of the world to send representatives to a conference to deal with these matters.[1]

By the declarations and acts of five successive presidents of the United States and by a formally enacted statute, the international policy of the government of the United States has been unequivocally made plain and recorded. It only remains to put it into effective execution.

There are two facts which must never be lost sight of in discussing and describing the foreign policy of the United States. The first is that while the executive and his agents have full power to negotiate a treaty with another government, that treaty does

[1] *Statutes at Large of the United States*, vol. XXXIX (Sixty-fourth Congress), p. 618.

not become effective unless ratified by the Senate, where a two-thirds vote in favour of ratification is required. The second is that so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognisance in the courts of the United States, it is open to such acts as Congress may pass for its enforcement, modification, or repeal.[1] Participation by the Senate in the treaty-making power absolutely prevents those secret international agreements which have so often given rise to embarrassment, controversy, and injustice. The number of votes required for ratification makes it almost impossible for an international obligation to be undertaken on purely party grounds. The exercise by the Senate of its authority may and frequently does cause delay in the settlement of a pressing international question. The balance is, however, in favour of the system established by the constitution, for under it treaties are much more likely to be scrupulously observed than if negotiated and entered into by the executive alone. It is to public opinion and to the Congress of the United States acting in response to public opinion that the world must look for the careful observance by the United States of treaties into which it has entered, and for the avoidance of any domestic legislation which would in fact, though not in form, weaken, amend, or destroy an existing treaty. With every

[1] U. S. 112 (1884), 599.

duly ratified treaty the faith of the American people is pledged, and it must be their own sense of honour which withholds contrary legislation. That the nation is competent under its existing form of government to act with decision and full responsibility in international relations is a fact well settled both by history and in public law.[1]

We have now seen that a nation is to be defined as a population of reasonable ethnic unity, dwelling in a territory which is substantially a geographic unity, and living under a single form of government. So long as the institutions of a nation are capable of receiving and assimilating the various ethnic elements which may come to it, the foundations upon which the nation rests will remain unshaken. If the time should come when the varied ethnic elements entering into the life of a given nation can no longer be assimilated to its institutions and ideals, the foundations of that nation will then be in danger.

We have followed in outline the process by which the United States of America declared itself a nation and built the framework and fabric of its government and public life. The constitution of the United States is the corner-stone of that framework and

[1] For two sharply differing views of the treaty-making power, see Butler, Charles Henry, *The Treaty-Making Power of the United States*, 2 vols. (New York, 1902), and Tucker, Henry St. George, *Limitations on the Treaty-Making Power* (Boston, 1915).

fabric. In order to understand and appreciate the constitution it is not necessary to bow down before it in blind adoration, or to regard it as so perfect that any suggestion of change, whether by interpretation or amendment, is of necessity anathema. The constitution has remained and has had its great measure of success because as originally drawn it minded its own business. It carefully refrained from going beyond those general principles of political organisation and administration upon which men might agree as justified by experience and sound reason.

Its essentials are four, and if any one of them should be altered or destroyed the constitution of the United States would cease to exist. These four essentials are: the federal form of government, with enumerated powers and the balance of authority carefully preserved between the national government and the several state governments; the bill of rights, which marks out an area of civil liberty into which government may not enter; the independent judiciary, with authority to protect the people as a whole against usurpation of power by the legislature, as well as the individual citizen against the invasion of his rights by either legislature or executive; and the republican form of government, which was established by the constitution and by it guaranteed to every state in the Union. There is no power that can alter or weaken these essential prin-

ciples save that of the people of the United States themselves. So long as they are faithful to the ideals of a federal republic and resist solicitations to exchange it in whole or in part for some other form of social, economic, or political organisation, the United States of America will remain. The supreme court has declared that the question as to what constitutes a republican form of government is political and not judicial. Therefore it is for the people themselves, as their needs, their interests, and their ambitions grow and change, to decide what may be the supreme law which the safety of the republic demands. Their government is as little ruled by the dead hand as it is independent of all human experience.

It is, however, not enough to know what constitutes a nation, and how a given nation has come into being and grown to its present estate. It is also necessary to ask the question why does a nation exist; what is its purpose or part in the general scheme of things? If a nation be regarded as an end in itself, with no purpose beyond its own aggrandisement, prosperity, and power, then the Prussian theory of the all-mighty state must be accepted. This theory, however, has just now hurled itself against the western world in vain and has gone down in what we trust is final ruin. In it patriotism commits suicide.

Philosophers as distant in time and manner as

Plato and Hegel have taught that the end of the organised state is realisation of the moral law; but as Bluntschli points out, the two powers which determine and condition the moral life, God and the individual human spirit, lie both outside control of the state.[1]

Law cannot be the end of the state, for it is but a condition and incident of state action. The Romans came nearer the mark when they saw the end of the state in the public welfare. If this be interpreted to mean development of the natural capacities and resources of the nation, perfecting the national life in the fields of intelligence, feeling, and morality alike, and crowning this completion by a spirit of constantly widening and deepening service, it is beyond criticism.

Condorcet thought that nature had put no limit to our hopes for the constant betterment of mankind, whether in respect to new advances in science and the arts, or to progress in morals, or to the improvement of man's intellectual and physical powers and their modes of exercise.[2] While this may be true of mankind as a whole, there is no assurance that it is true of any single nation. Great civilisations of which we have but scanty knowledge and dim appreciation have risen and fallen upon this

[1] Bluntschli, J. K., *Theory of the State* (Oxford, 1885), p. 299.

[2] Condorcet, *Esquisse d'un Tableau Historique des Progrès de l'Esprit Humain* (Gènes, 1798), p. 307.

earth. Nations of great splendour and boundless promise have come and gone. They have fallen either because of the exhaustion of the economic basis for the support of their national life, or through moral decay from within, or by reason of invasion and subjection by a more vigorous and active people. The keen eye of Gibbon long ago saw that "all that is human must retrograde if it do not advance." [1] In his notable closing chapter he vividly described how barbarian conquerors of Rome had usurped in a moment the fruits of the toil and the treasure of successive ages. This is the terrible fate which hangs as a possibility over the head of any nation which does not constantly refresh its strength at the eternal springs of intellectual and moral vigour. It cannot be the aim of a nation to perfect its government alone. It must also cultivate love of beauty, as well as the power to create the beautiful and to appreciate it. It must cultivate the love of truth, as well as the willingness to search for it and to permit that search by others. It must cultivate the love of high ideals and a disciplined will to pursue them in spite of obstacles. It must cling to the spirit of progress and not misinterpret its direction. The conflict is on between the principle of individual liberty which is the moving force of western civilisation, and the principle of social, economic, and politi-

[1] Gibbon, Edward, *History of the Decline and Fall of the Roman Empire*, edited by J. B. Bury, 7 vols. (London, 1900), vol. VII, p. 304.

cal collectivism which is the essential principle of the civilisation of the Orient. The reawakened East after centuries of slumber is rousing itself to contest the dominance of western civilisation and its principles, and the spirit of the East is offering in western nations collectivism in one of its many forms as a substitute for that principle which from the time of ancient Greece has shaped and stimulated the world's progress. In the face of these combatant forces and ideals the division which has existed in the western world for 300 years between liberal and conservative is seen to fall away like a shell that has passed its usefulness. The true liberal is a conservative, because he would build progress upon the foundation laid by experience. The true conservative is a liberal, because he would improve and develop the institutions for which he greatly cares, and adjust them to new circumstances and conditions in order to forestall their destruction. The struggle between liberty and equality has begun. The history of the next centuries seems likely to be written in terms of that far-reaching controversy. Victory over collectivism, with its attendant destruction, stagnation, and death, will not be had by an individualism which is grasping, self-centred, and selfish. If individualism is to have a chance to win on the pages of history it must be an individualism which finds its completion in the spirit of glad and generous service to country-

men and to mankind. It is still true that "whosoever shall lose his life for my sake shall find it."

If these teachings be applied to the life of a nation, it means that in order to perfect itself and survive, a nation must achieve what I have ventured to call the international mind. This is nothing else than that fixed habit of thinking of foreign relations and business and that fixed habit of dealing with them which regard the several nations of the civilised world as friendly and co-operating equals in aiding the progress of civilisation, in developing commerce and industry, and in spreading enlightenment and culture throughout the world.[1]

There remains the final question, to what end is all this? China and India, Persia and Egypt, Greece and Rome, the kingdoms and republics of the Middle Ages have come and gone upon the stage of history. Each has taught a lesson and left a contribution to human enlightenment and human betterment. Some of these are greater, some lesser, but without them all the course of human history can neither be understood nor interpreted. The people of the United States, like those of every modern nation, must ask themselves the question as to what their contribution to human betterment is to be, and to what end their mightiest and most determined efforts are directed. Here the horizon

[1] Butler, Nicholas Murray, *The International Mind* (New York, 1913), p. 102.

of observation is reached and knowledge must give way to faith. The alternative is as simple as it is familiar. Either there must be

> . . . one far-off divine event
> To which the whole creation moves

or we may eat, drink, and be merry, for to-morrow we die.

APPENDIX

APPENDIX I

USEFUL REFERENCES

I

Cushing (Harry A.)—*Writings of Samuel Adams*, 4 vols. (New York, 1904–1908.)

Hosmer (James K.)—*Samuel Adams.* (American Statesmen Series.) (Boston, 1898.)

Wells (William V.)—*Life and Public Services of Samuel Adams*, 3 vols. (Boston, 1865.)

Bigelow (John)—*Life of Benjamin Franklin*, 3 vols. (Philadelphia, 1888.)

Ford (Paul Leicester)—*The Many-Sided Franklin.* (New York, 1899.)

Morse (John T., Jr.)—*Benjamin Franklin.* (American Statesmen Series.) (Boston, 1898.)

Smyth (Albert Henry)—*Writings of Benjamin Franklin*, 10 vols. (New York, 1905–1907.)

II

Fiske (John)—*The Critical Period of American History*, 1783–1789. (Boston, 1897.)

Ford (Worthington C.)—*Writings of George Washington*, 14 vols. (New York, G. P. Putnam's Sons, 1889–1893.)

Lodge (Henry Cabot)—*George Washington*, 2 vols. (American Statesmen Series.) (Boston, 1898.)

III

Atherton (Gertrude)—*The Conqueror*: a dramatised biography of Alexander Hamilton. (New York, 1916.)

Ford (Henry Jones)—*Alexander Hamilton.* (New York, 1920.)

Lodge (Henry Cabot)—*Alexander Hamilton.* (American Statesmen Series.) (Boston, 1898.)
—— *Works of Alexander Hamilton*, 12 vols. (New York, 1904.)
—— *The Federalist:* a Commentary on the Constitution of the United States. Reprinted from the original text of Alexander Hamilton, John Jay, and James Madison. (New York, 1888.)
Oliver (Frederick Scott)—*Alexander Hamilton*, an essay on American Union. (London, 1906.)

Farrand (Max)—*The Framing of the Constitution of the United States.* (London, 1913.)
Gay (Sydney Howard)—*James Madison.* (American Statesmen Series.) (Boston, 1898.)
Hunt (Gaillard)—*Writings of James Madison*, 9 vols. (New York, 1900–1910.)
Hunt (Gaillard) and Scott (James Brown)—*Debates in the Federal Convention of* 1787, *which framed the Constitution of the United States of America*, reported by James Madison. (New York, 1920.)

IV

Channing (Edward)—*The Jeffersonian System.* (New York, 1906.)
Ford (Paul Leicester)—*Writings of Thomas Jefferson*, 10 vols. (New York, 1892–1899.)
Morse (John T., Jr.)—*Thomas Jefferson.* (American Statesmen Series.) (Boston, 1898.)

V

Beveridge (Albert J.)—*Life of John Marshall*, 4 vols. (Boston, 1916–1919.)
Cotton (Joseph P., Jr.)—*Constitutional Decisions of John Marshall*, 2 vols. (New York, 1905.)
Magruder (Allan B.)—*John Marshall.* (American Statesmen Series.) (Boston, 1898.)

Lodge (Henry Cabot)—*Daniel Webster.* (American Statesmen Series.) (Boston, 1899.)

McMaster (John Bach)—*Daniel Webster.* (New York, 1902.)
Writings and Speeches of Daniel Webster, 18 vols. (National Edition.) (Boston, 1903.)

Bassett (John Spencer)—*Life of Andrew Jackson*, 2 vols. (New York, 1916.)
Bowers (Claude G.)—*Party Battles of the Jackson Period.* (Boston, 1922.)
Sumner (William Graham)—*Andrew Jackson.* (American Statesmen Series.) (Boston, 1899.)

VI

Charnwood (Lord)—*Abraham Lincoln.* (London, 1916.)
Dunning (William Archibald)—*Essays on the Civil War and Reconstruction.* (New York, 1910.)
Morse (John T., Jr.)—*Abraham Lincoln.* (American Statesmen Series.) (Boston, 1899.)
Nicolay (John G.) and Hay (John)—*Abraham Lincoln: A History*, 10 vols. (New York, 1890.)
—— *Complete Works of Abraham Lincoln*, 2 vols. (New York, 1902.)
Stephenson (Nathaniel Wright)—*Lincoln.* (Indianapolis, 1922.)
Weik (Jesse W.)—*The Real Lincoln:* A Portrait. (Boston, 1922.)

VII

Bishop (Joseph Bucklin)—*Theodore Roosevelt and His Time.* (New York, 1920.)
Burgess (John W.)—*The Administration of President Hayes.* (New York, 1916.)
Butler (Nicholas Murray)—*Is America Worth Saving?* Addresses on national problems and party policies. (New York, 1920.)
Coolidge (Louis A.)—*Ulysses S. Grant.* (American Statesmen Series.) (Boston, 1917.)
Dodd (William E.)—*Woodrow Wilson and His Work.* (Garden City, N. Y., 1921.)
Olcott (Charles S.)—*William McKinley.* (American Statesmen Series.) (Boston, 1916.)
Parker (George F.)—*Recollections of Grover Cleveland.* (New York, 1909.)

Peck (Harry Thurston)—*Twenty Years of the Republic*, 1885 *to* 1905. (New York, 1906.)
Rhodes (James Ford)—*History of the United States from Hayes to McKinley*, 1877 *to* 1896. (New York, 1919.)
—— *The McKinley and Roosevelt Administrations*, 1897 *to* 1909. (New York, 1922.)
Scott (James Brown)—*American Foreign Policy:* Based upon statements of Presidents and Secretaries of State of the United States. (Washington, 1920.)
Sutherland (George)—*Constitutional Power and World Affairs*. (New York, 1919.)

GENERAL

Adams (James Truslow)—*The Founding of New England*. (Boston, 1921.)
Adams (R. G.)—*Political Ideas of the American Revolution*. (Durham, N. C., 1922.)
American Statesmen Series—40 vols. (Boston, 1882–1922.)
Becker (Carl)—*The Declaration of Independence:* a study in the history of political ideas. (New York, 1922.)
Burdick (Charles K.)—*The Law of the American Constitution*. (New York, 1922.)
Burgess (John W.)—*The Middle Period*, 1817–1858. (New York, 1897.)
Channing (Edward)—*History of the United States*, 5 vols. (New York, 1905–1921.)
Davis (Jefferson)—*Rise and Fall of the Confederate Government*, 2 vols. (New York, 1912.)
Dunning (William Archibald)—*The British Empire and the United States:* a review of their relations during the century of peace following the Treaty of Ghent. (New York, 1914.)
Fish (Carl Russell)—*The Development of American Nationality*. (New York, 1919.)
Goodnow (Frank J.)—*Principles of the Administrative Law of the United States*. (New York, 1905.)
Greene (Evarts B.)—*The Foundations of American Nationality*. (New York, 1922.)
Hart (Albert Bushnell)—*The Monroe Doctrine:* an interpretation. (Boston, 1916.)

Hazelton (John H.)—*The Declaration of Independence:* its history. (New York, 1906.)
McCall (Samuel W.)—*The Business of Congress.* (New York, 1911.)
Merriam (C. Edward)—*History of American Political Theories.* (New York, 1903.)
—— *The American Party System:* an introduction to the study of political parties in the United States. (New York, 1922.)
Moore (John Bassett)—*American Diplomacy:* its spirit and achievements. (New York, 1905.)
Osgood (Herbert L.)—*The American Colonies in the Seventeenth Century,* 3 vols. (New York, 1904–1907.)
—— *The American Colonies in the Eighteenth Century,* 4 vols. (New York, 1923–1924.)
Preston (Howard W.)—*Documents Illustrative of American History,* 1606–1863. (New York, 1886.)
Richardson (James D.)—*Messages and Papers of the Presidents,* 1789–1897, 10 vols. (Washington, 1898.)
—— *Messages and Papers of the Confederacy,* 2 vols. (Nashville, 1906.)
Semple (Ellen Churchill)—*American History and Its Geographic Conditions.* (Boston, 1903.)
Shaw (Albert)—*Political Problems of American Development.* (New York, 1907.)
Stanwood (Edward)—*History of the Presidency,* 1788–1909, 2 vols. (Boston, 1912.)
—— *American Tariff Controversies in the Nineteenth Century,* 2 vols. (Boston, 1903.)
Trevelyan (George Otto)—*Life and Letters of Lord Macaulay,* enlarged and complete edition, 2 vols. (New York, 1875.) Vol. II, pp. 451–6. Letter to H. S. Randall, in reference to Jefferson and the probable future of democratic institutions in the United States, dated May 23, 1857—quoted in *Works of James A. Garfield,* edited by Burke A. Hinsdale, 2 vols. (Boston, 1883.) Vol. II, pp. 51–53.
Turner (Frederick Jackson)—*The Frontier in American History.* (New York, 1920.)
Van Metre (Thurman W.)—*Economic History of the United States.* (New York, 1921.)
Van Tyne (Claude H.)—*The Causes of the War of Independence.* (Boston, 1922.)

Webster (Noah)—Letter to Daniel Webster, particularly in reference to the Hartford Convention, dated September 6, 1834—in *American Historical Review*, October, 1903, vol. IX, pp. 96–104.

Wilson (Henry)—*History of the Rise and Fall of the Slave Power in America*, 3 vols. (Boston, 1872.)

Wilson (Woodrow)—*Constitutional Government in the United States*. (New York, 1908.)

APPENDIX II

THE STATES OF THE UNION

No.	State	Date of Admission
1	Delaware	Original States in order of their ratification of the Constitution
2	Pennsylvania	
3	New Jersey	
4	Georgia	
5	Connecticut	
6	Massachusetts	
7	Maryland	
8	South Carolina	
9	New Hampshire	
10	Virginia	
11	New York	
12	North Carolina	
13	Rhode Island	
14	Vermont	1791
15	Kentucky	1792
16	Tennessee	1796
17	Ohio	1803
18	Louisiana	1812
19	Indiana	1816
20	Mississippi	1817
21	Illinois	1818
22	Alabama	1819
23	Maine	1820
24	Missouri	1821
25	Arkansas	1836
26	Michigan	1837
27	Florida	1845
28	Texas	1845
29	Iowa	1846
30	Wisconsin	1848
31	California	1850
32	Minnesota	1858
33	Oregon	1859
34	Kansas	1861
35	West Virginia	1863
36	Nevada	1864
37	Nebraska	1867
38	Colorado	1876
39	North Dakota	1889
40	South Dakota	1889
41	Montana	1889
42	Washington	1889
43	Idaho	1890
44	Wyoming	1890
45	Utah	1896
46	Oklahoma	1907
47	New Mexico	1912
48	Arizona	1912

APPENDIX III

PRESIDENTS OF THE UNITED STATES

	Presidents	Administration	
		Began	Ended
1.	George Washington	March 4, 1789	March 4, 1797
2.	John Adams	March 4, 1797	March 4, 1801
3.	Thomas Jefferson	March 4, 1801	March 4, 1809
4.	James Madison	March 4, 1809	March 4, 1817
5.	James Monroe	March 4, 1817	March 4, 1825
6.	John Quincy Adams	March 4, 1825	March 4, 1829
7.	Andrew Jackson	March 4, 1829	March 4, 1837
8.	Martin Van Buren	March 4, 1837	March 4, 1841
9.	William Henry Harrison	March 4, 1841	April 4, 1841
10.	John Tyler	April 4, 1841	March 4, 1845
11.	James K. Polk	March 4, 1845	March 4, 1849
12.	Zachary Taylor	March 4, 1849	July 9, 1850
13.	Millard Fillmore	July 9, 1850	March 4, 1853
14.	Franklin Pierce	March 4, 1853	March 4, 1857
15.	James Buchanan	March 4, 1857	March 4, 1861
16.	Abraham Lincoln	March 4, 1861	April 15, 1865
17.	Andrew Johnson	April 15, 1865	March 4, 1869
18.	Ulysses S. Grant	March 4, 1869	March 4, 1877
19.	Rutherford B. Hayes	March 4, 1877	March 4, 1881
20.	James A. Garfield	March 4, 1881	Sept. 19, 1881
21.	Chester A. Arthur	Sept. 19, 1881	March 4, 1885
22.	Grover Cleveland	March 4, 1885	March 4, 1889
23.	Benjamin Harrison	March 4, 1889	March 4, 1893
—	Grover Cleveland	March 4, 1893	March 4, 1897
24.	William McKinley	March 4, 1897	Sept. 14, 1901
25.	Theodore Roosevelt	Sept. 14, 1901	March 4, 1909
26.	William H. Taft	March 4, 1909	March 4, 1913
27.	Woodrow Wilson	March 4, 1913	March 4, 1921
28.	Warren G. Harding	March 4, 1921	

APPENDIX IV

THE DECLARATION OF INDEPENDENCE—1776

IN CONGRESS, JULY 4, 1776

The Unanimous Declaration of the Thirteen United States of America

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.—We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurptions, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.—He has refused his Assent to Laws, the most wholesome and necessary

for the public good.—He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.—He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.—He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.—He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.—He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.—He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.—He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.—He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.—He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance.—He has kept among us, in times of peace, Standing Armies, without the Consent of our legislatures.—He has affected to render the Military independent of and superior to the Civil power.—He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:—For quartering large bodies of armed troops among us:—For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:—For cutting off our Trade with all parts of the world:—For imposing Taxes on us without our Consent:—For depriving us in many cases, of the benefits of Trial by Jury:—For transporting us beyond Seas to be tried for pretended offences:—For

abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:—For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:—For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.—He has abdicated Government here, by declaring us out of his Protection and waging War against us.—He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.—He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.—He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.—He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions. In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people. Nor have We been wanting in attentions to our Brittish brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.—

WE, THEREFORE, the REPRESENTATIVES of the

UNITED STATES OF AMERICA, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the Good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be FREE AND INDEPENDENT STATES; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.—And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

JOHN HANCOCK.

NEW HAMPSHIRE

JOSIAH BARTLETT,
WM. WHIPPLE,
MATTHEW THORNTON.

MASSACHUSETTS BAY

SAML. ADAMS,
JOHN ADAMS,
ROBT. TREAT PAINE,
ELBRIDGE GERRY.

RHODE ISLAND

STEP. HOPKINS,
WILLIAM ELLERY.

CONNECTICUT

ROGER SHERMAN,
SAM'EL HUNTINGTON,
WM. WILLIAMS,
OLIVER WOLCOTT.

NEW YORK

WM. FLOYD,
PHIL. LIVINGSTON,
FRANS. LEWIS,
LEWIS MORRIS.

NEW JERSEY

RICHD. STOCKTON,
JNO. WITHERSPOON,
FRAS. HOPKINSON,
JOHN HART,
ABRA. CLARK.

PENNSYLVANIA

ROBT. MORRIS,
BENJAMIN RUSH,
BENJA. FRANKLIN,
JOHN MORTON,
GEO. CLYMER,
JAS. SMITH,
GEO. TAYLOR,
JAMES WILSON,
GEO. ROSS.

DELAWARE

CAESAR RODNEY,
GEO. READ,
THO. M'KEAN.

MARYLAND

SAMUEL CHASE,
WM. PACA,
THOS. STONE,
CHARLES CARROLL OF CARROLLTON.

VIRGINIA

GEORGE WYTHE,
RICHARD HENRY LEE,
TH. JEFFERSON,
BENJA. HARRISON,
THS. NELSON, JR.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

NORTH CAROLINA

WM. HOOPER,
JOSEPH HEWES,
JOHN PENN.

SOUTH CAROLINA

EDWARD RUTLEDGE,
THOS. HEYWARD, JUNR.,
THOMAS LYNCH, JUNR.,
ARTHUR MIDDLETON.

GEORGIA

BUTTON GWINNETT,
LYMAN HALL,
GEO. WALTON.

[From *Debates in the Federal Convention of* 1787, reported by James Madison, edited by Gaillard Hunt and James Brown Scott (New York, 1920), pp. xxxiii–xxxvi.]

APPENDIX V

THE CONSTITUTION OF THE UNITED STATES

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE. I.

Section. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

Section. 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence

Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United

States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the

Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform

Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committeed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section. 9. The Migration or Importation of such Persons as

any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State. or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE. II.

Section. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the

Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Ad-

vice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III.

Section. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two

or more States;—between a State and Citizens of another State; —between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE. IV.

Section. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any

Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

ARTICLE. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the," being interlined between the seventh and eighth Lines of the first Page, The Word "Thirsty" being partly written on an Erazure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the Second Page.

done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

Gº. Washington—Presidt
and deputy from Virginia

Attest William Jackson Secretary

New Hampshire	John Langdon Nicholas Gilman
Massachusetts	Nathaniel Gorham Rufus King
Connecticut	Wm Saml Johnson Roger Sherman

New York	Alexander Hamilton
New Jersey	Wil: Livingston David Brearley. Wm. Paterson. Jona: Dayton
Pennsylvania	B Franklin Thomas Mifflin Robt Morris Geo. Clymer Thos. FitzSimons Jared Ingersoll James Wilson Gouv Morris
Delaware	Geo: Read Gunning Bedford jun John Dickinson Richard Bassett Jaco: Broom
Maryland	James McHenry Dan of St Thos. Jenifer Danl Carroll
Virginia	John Blair James Madison Jr.
North Carolina	Wm Blount Richd Dobbs Spaight. Hu Williamson
South Carolina	J. Rutledge Charles Cotesworth Pinckney Charles Pinckney Pierce Butler.
Georgia	William Few Abr Baldwin

[From *Debates in the Federal Convention of* 1787, reported by James Madison, edited by Gaillard Hunt and James Brown Scott (New York, 1920), pp. 627–638.]

APPENDIX VI

THE FIRST TEN AMENDMENTS TO THE CONSTITUTION

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE III.

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces,

or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

ARTICLE VII.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

SUBSEQUENT AMENDMENTS TO THE CONSTITUTION

ARTICLE XI.

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

The eleventh amendment was declared in a message from the President to Congress, dated the 8th of January, 1798, to have been ratified by the legislatures of three-fourths of the States.

ARTICLE XII.

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then

the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The twelfth amendment, in lieu of the original third paragraph of the first section of the second article, was declared in a proclamation of the Secretary of State, dated the 25th of September, 1804, to have been ratified by the legislatures of three-fourths of the States.

ARTICLE XIII.

Section 1. Neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

The thirteenth amendment was declared, in a proclamation of the Secretary of State, dated the 18th of December, 1865, to have been ratified by the legislatures of twenty-seven of the thirty-six States.

ARTICLE XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The fourteenth amendment was, in a proclamation of the Secretary of State, dated the 28th of July, 1868, declared to have been ratified by the legislatures of thirty of the thirty-six States.

ARTICLE XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

The fifteenth amendment was declared, in a proclamation of the Secretary of State, dated March 30, 1870, to have been ratified by the legislatures of twenty-nine of the thirty-seven States.

ARTICLE XVI.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

The sixteenth amendment was declared in an announcement by the Secretary of State, dated February 25, 1913, to have been ratified by the legislatures of thirty-eight of the forty-eight States.

ARTICLE XVII.

(1) The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

(2) When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

(3) This amendment shall not be so construed as to effect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

The seventeenth amendment was declared, in an announcement by the Secretary of State, dated May 31, 1913, to have been ratified by the legislatures of thirty-six of the forty-eight States.

ARTICLE XVIII.

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

The eighteenth amendment was declared, in an announcement by the Acting Secretary of State, dated January 29, 1919, to have been ratified by the legislatures of thirty-six of the forty-eight States.

ARTICLE XIX.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

The nineteenth amendment was declared, in an announcement by the Secretary of State, dated August 26, 1920, to have been ratified by the legislatures of thirty-six of the forty-eight States.

APPENDIX VII

SPEECH OF BENJAMIN FRANKLIN IN THE CONSTITUTIONAL CONVENTION AT THE CONCLUSION OF ITS DELIBERATIONS, SEPTEMBER 17, 1787

MR. PRESIDENT,

I confess, that I do not entirely approve of this Constitution at present; but, Sir, I am not sure I shall never approve it; for, having lived long, I have experienced many instances of being obliged, by better information or fuller consideration, to change my opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that, the older I grow, the more apt I am to doubt my own judgment of others. Most men, indeed, as well as most sects in religion, think themselves in possession of all truth, and that wherever others differ from them, it is so far error. Steele, a Protestant, in a dedication, tells the Pope, that the only difference between our two churches in their opinions of the certainty of their doctrine, is, the Romish Church is *infallible*, and the Church of England is *never in the wrong*. But, though many private Persons think almost as highly of their own infallibility as of that of their Sect, few express it so naturally as a certain French Lady, who, in a little dispute with her sister, said, "But I meet with nobody but myself that is *always* in the right." "*Je ne trouve que moi qui aie toujours raison.*"

In these sentiments, Sir, I agree to this Constitution, with all its faults,—if they are such; because I think a general Government necessary for us, and there is no *form* of government but what may be a blessing to the people, if well administered; and I believe, farther, that this is likely to be well administered for a course of years, and can only end in despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other. I doubt, too, whether any other Convention we can obtain, may be able to make a better constitution; for, when you assemble a number of men, to have the advantage of their joint wisdom, you inevitably assemble with those men all their preju-

dices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a *perfect* production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear, that our councils are confounded like those of the builders of Babel, and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats. Thus I consent, Sir, to this Constitution, because I expect no better, and because I am not sure that it is not the best. The opinions I have had of its *errors* I sacrifice to the public good. I have never whispered a syllable of them abroad. Within these walls they were born, and here they shall die. If every one of us, in returning to our Constituents, were to report the objections he has had to it, and endeavour to gain Partisans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favour among foreign nations, as well as among ourselves, from our real or apparent unanimity. Much of the strength and efficiency of any government, in procuring and securing happiness to the people, depends on *opinion*, on the general opinion of the goodness of that government, as well as of the wisdom and integrity of its governors. I hope, therefore, for our own sakes, as a part of the people, and for the sake of our posterity, that we shall act heartily and unanimously in recommending this Constitution, wherever our Influence may extend, and turn our future thoughts and endeavours to the means of having it *well administered.*

On the whole, Sir, I cannot help expressing a wish, that every member of the Convention who may still have objections to it, would with me on this occasion doubt a little of his own infallibility, and, to make *manifest* our *unanimity*, put his name to this Instrument.

[Then the motion was made for adding the last formula, viz. "Done in convention by the Unanimous Consent," &c.; which was agreed to and added accordingly.]

[*Writings of Benjamin Franklin*, edited by Albert Henry Smyth (New York, 1905–1907), vol. IX, pp. 607–609.]

APPENDIX VIII

LETTER OF THE PRESIDENT OF THE FEDERAL CONVENTION, DATED SEPTEMBER 17, 1787, TO THE PRESIDENT OF CONGRESS, TRANSMITTING THE CONSTITUTION[1]

IN CONVENTION, SEPTEMBER 17, 1787

SIR,

We have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most adviseable.

The friends of our country have long seen and desired, that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities should be fully and effectually vested in the general government of the Union: But the impropriety of delegating such extensive trust to one body of men is evident—Hence results the necessity of a different organization.

It is obviously impracticable in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all: Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was encreased by a difference among the several states as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved

[1] Reprinted from *Documentary History of the Constitution*, vol. II (Washington, 1894), pp. 1, 2.

our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every state is not perhaps to be expected; but each will doubtless consider, that had her interest been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect, We have the honor to be, Sir,
Your Excellency's
most obedient and humble servants,
GEORGE WASHINGTON, President.
By unanimous Order of the Convention.
His Excellency the PRESIDENT OF CONGRESS.

[From *Debates in the Federal Convention of* 1787, reported by James Madison, edited by Gaillard Hunt and James Brown Scott (New York, 1920), pp. 639–640.]

APPENDIX IX

GENERAL WASHINGTON'S ADDRESS TO CONGRESS ON RESIGNING HIS COMMISSION

ANNAPOLIS, 23 December, 1783.

MR. PRESIDENT,

The great events, on which my resignation depended, having at length taken place, I have now the honor of offering my sincere congratulations to Congress, and of presenting myself before them, to surrender into their hands the trust committed to me, and to claim the indulgence of retiring from the Service of my Country.

Happy in the confirmation of our Independence and Sovereignty, and pleased with the opportunity afforded the United States of becoming a respectable nation, I resign with satisfaction the appointment I accepted with diffidence; a diffidence in my abilities to accomplish so arduous a task, which, however, was superseded by a confidence in the rectitude of our cause, the support of the supreme Power of the Union, and the patronage of Heaven.

The successful termination of the war has verified the most sanguine expectations; and my gratitude for the interposition of Providence, and the assistance I have received from my Countrymen, encreases with every review of the momentous contest.

While I repeat my obligations to the Army in general, I should do injustice to my own feelings not to acknowledge, in this place, the peculiar services and distinguished merits of the Gentlemen, who have been attached to my person during the war. It was impossible that the choice of confidential officers to compose my family should have been more fortunate. Permit me, Sir, to recommend in particular those, who have continued in Service to the present moment, as worthy of the favorable notice and patronage of Congress.

I consider it an indispensable duty to close this last solemn act of my official life, by commending the Interests of our dearest

country to the protection of Almighty God, and those who have the superintendence of them to his holy keeping.

Having now finished the work assigned me, I retire from the great theatre of action; and, bidding an affectionate farewell to this august body, under whose orders I have so long acted, I here offer my commission, and take my leave of all the employments of public life.

[*The Writings of George Washington*, edited by Worthington C. Ford (New York, 1889–1893), vol. X, pp. 338–339.]

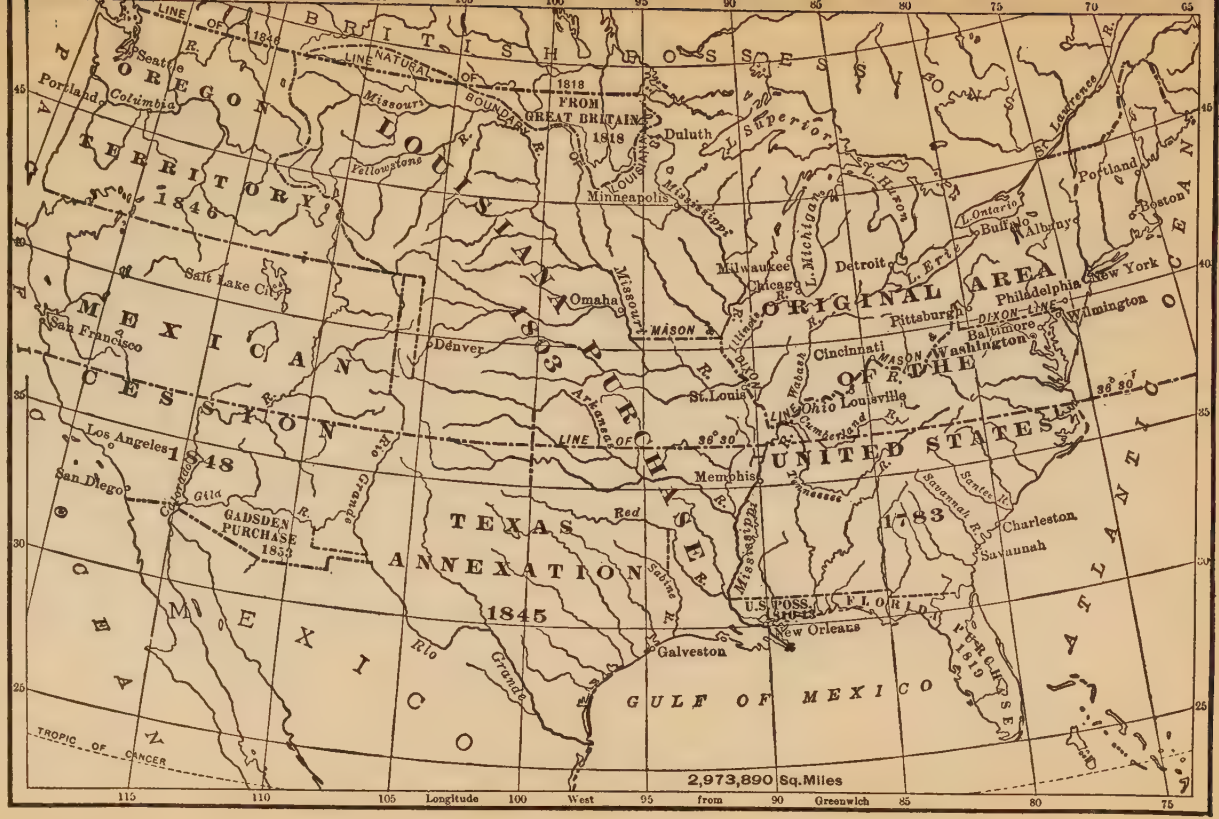
APPENDIX X

LINCOLN'S SPEECH AT GETTYSBURG, NOVEMBER 19, 1863

Fourscore and seven years ago our fathers brought forth on this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal. Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battlefield of that war. We have come to dedicate a portion of that field, as a final resting-place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this. But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember, what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.

[*Works of Abraham Lincoln*, edited by John G. Nicolay and John Hay (New York, 1890), vol. VIII, p. 202.]

MAPS



TERRITORIAL GROWTH OF THE UNITED STATES ON THE NORTH AMERICAN CONTINENT, EXCLUDING ALASKA, FROM 1783

Showing the parallel 36° 30′ north latitude and the Mason and Dixon Line

THE UNITED STATES, SHOWING THE STATE BOUNDARIES, CAPITALS AND PRINCIPAL CITIES

INDEX

INDEX

Abolition of slavery. *See* Slavery
Acton, Lord, and liberty, 131
Adams, John, Boston Tea Party, 27; Declaration of Independence, 40; American Revolution, 45; treaty of peace with England, 65; as foreign representative, 66, 295; the vice-presidency, 81–82; treaty with Prussia, 85, 295; Federalists, 135, 151–152; and Thomas Jefferson, 166; and John Marshall, 191–192; Webster's oration on, 202; the presidency, 289
Adams, John Quincy, the presidency, 212; abolition of slavery, 237; the constitution, 269; as foreign representative, 295
Adams, Samuel, influence of, 6; birth, 11; early career, 12; views on Parliament and the colonies, 17–21; and Franklin, 24; estimate of, 25, 103; independence of the colonies, 26, 29–31; and Washington, 47; and the constitution, 116
Adams family, 10
Admiralty jurisdiction at colonial ports, 38
African negroes. *See* Slavery
Agreements, secret international, 302
Agriculture, development of, 275
Alabama, slavery, 146; admission of, 179; secession, 250
Albany, convention at, 34
Alcoholic liquors. *See* Liquors
Alexandria, Va., conference on rights of navigation, 75
Alien and sedition laws, 152–153, 156
Alleghanies, territory west of, 59, 63, 176, 183
Alliances. *See* Foreign alliances
Alton, Ill., Lincoln-Douglas debates, 244
Amendments to the constitution. *See* Constitution of the United States
American Antislavery Society, 236
American Confederacy. *See* Confederacy
American Conference, First International, 299
American literature, influence of Franklin, 24; and the Civil war, 273
American poetry, 273
Ames, Fisher, estimate of George Washington, 90; of Alexander Hamilton, 100–101
Anarchy in Massachusetts, 67; in American life, 68
Annapolis, Washington in, 62; convention on questions of commerce, 75–79; Madison in, 103
Anti-Federalists. *See* Federalists and anti-Federalists
Anti-nationalism. *See* Nationalism and anti-nationalism
Antietam, battle of, 262
Antwerp, centre of European emigration, 276
Appomattox, 155; Court House, meeting of Lee and Grant, 263
Arbitration, international, 298–301
Aristides and Hamilton, 101

Aristotle, public right, 41; and Alexander Hamilton, 99; and democracy, 140
Arkansas, slavery, 146; admission of, 229
Armaments, limitation of, 298–299, 301
Army, militia in the colonies, 7; against Indian attacks, 34; national, 72; military despotism, 279
Articles of Confederation, 54–55, 59–61, 64–70, 73–74, 77, 79, 107, 110
Associate judges, first Supreme court, 85
Association for the abolition of slavery, 142–143
Atherton, Gertrude, *The Conqueror*, 111, foot-note
Attorney-general, Randolph, 83
Austria, commercial treaties, 66; conflict with France, 150
Ayrshire, home of the Hamilton family, 99

Bagehot, Walter, 128
Ball, Mary (Mrs. Augustine Washington), 48
Baltimore, National democrat convention, 247
Bank, national, 184–185, 196, 201, 232, 283
Bedford, Gunning, at the Philadelphia constitutional convention, 110
Beer, George Louis, xvi
Belgium, European war, 96
Bell, John, candidate for the presidency, 247
Benton, Joel, *Greeley on Lincoln*, 246, foot-note
Benton, Thomas H., estimate of William B. Giles, 89; *Thirty Years View*, 155, foot-note; *Abridgment of the Debates of Congress*, 205, foot-note; 207, foot-note; 233, foot-note; 235, foot-note; annexation of Texas, 233
Beveridge, Albert J., 189
Bibliography of useful references, xv–xvi, 313–318
Bill of rights, 3, 117–124, 176, 288, 292, 304
Blaine, James G., letter on John Adams, 151–152; and Henry Clay, 226; foreign policy, 299
Blair, John, member of first Supreme court, 85
Blue Ridge, 57
Bluntschli, J. K., 306
Bonaparte, estimate of Washington, 90; subjugation of Europe, 159; attacks on trade, 161
Bossuet, 203
Boston, birthplace of Adams and Franklin, 11, 21; town meetings, 13; Boston port act, 26–28, 39; Boston tea party, 26–28, 38–39; evacuation by British troops, 49
Bowdoin, James, 73, 75
Bowers, Claude G., *Party Battles of the Jackson Period*, 213, foot-note
Boycott of Boston, 1774, 28
Braddock, General, and Franklin, 22
Bradford, William, 33
Breckenridge, John C., the presidency, 247, 249
Briggs, George Nixon, 197
British, etc. *See under* England, English
Bryant, William Cullen, and Lincoln, 245
Bryce, James, 286
Buchanan, James, slavery, 241–242; the Democrat party, 245, 247; secession, 251; estimate of, 252–253

Budapest, centre of European emigration, 276
Buffon, statistical tables, 163
Bunker Hill, battle of, 45; Webster's oration, 202
Bureaucracy, 285
Burke, Edmund, 36–37, 150, 207
Burr, Aaron, and Randolph, 84; and Hamilton, 100; and Andrew Jackson, 211; the presidency, 289
Bute, Lord, 6
Butler, Charles Henry, *The Treaty-Making Power of the United States*, 303, foot-note
Butler, Nicholas Murray, *The Effect of the War of* 1812 *upon the Consolidation of the Union*, 201, foot-note; *The International Mind*, 309, foot-note
Butler, Pierce, first senator from South Carolina, 84

Cabinet officers, first, 83–84
Calhoun, John C., and sovereignty, 123; nationalism, 181, 183; tariff, 184; Democrat party, 186; nullification and states' rights, 197, 213–218; Rockingham memorial, 200; in the House of representatives, 201; and Robert H. Hayne, 205–206, 209, 217–218; and Andrew Jackson, 212; the presidency a motive, 227; annexation of Texas, 232; the Confederate constitution, 251
California, annexation of, 234; admission of, 236
Calvinism in New England, 56–57
Cambridge, Continental army, 31, 46
Camden, Lord, 14
Canada, and the colonies, 31
Canals, development of, 275
Capital and labour, 275, 278
Capitol, no official place of assembly, 83
Carlyle, Thomas, xviii, 11
Carrickfergus, original home of Andrew Jackson's ancestors, 210
Carroll, Charles, first senator from Maryland, 84
Cases. *See* Law cases
Celtic immigration, 275
Charleston, Ill., Lincoln-Douglas debates, 244
Charleston, S. C., consignment of tea, 1773, 27; National democrat convention, 246–247; State convention, 249; defence of property, 252–253
Charnwood, Lord. *Abraham Lincoln*, xvi
Chase, Salmon P., *Texas v. White* (case), 173, foot-note; Kansas-Nebraska bill, 239; and Lincoln, 245–246
Chatham, Lord. *See* Pitt, William, earl of Chatham
Chesapeake Bay, rights of navigation, 75
Chesterfield, Lord, 23
Chesterton, Gilbert K., xiii
Chicago, immigrant population, 277
China and civilisation, 309
Chisholm, Alexander, suit against Georgia, 288–289
Cicero, 41, 203
Civil war, 189, 225, 258, 273
Civilisation, 225, 309
Clarendon, Lord, 7
Clay, Henry, spokesman of the Whig party, 186; in the House of representatives, 201; and Andrew Jackson, 212; estimate of, 226–227; the presidency, 233; Compromise of 1850, 235, 238; influence of, 257; as a foreign representative, 295

Cleveland, Ohio, immigrant population, 277
Clinton, George, 50, 190
Closed doors, wisdom of, 107
Coleridge, Samuel Taylor, xv
Collectivism, 307–308
College of New Jersey, refuge of Congress, 72; Madison as student, 103
Colleges, development of, 274
Colonies, liberty, 7; the thirteen colonies welded into one people, 28; ethnic and geographic unity, 31–38; aid from France, 49–50, 149, 295
Columbia, S. C., convention on nullification, 216
Columbia university, Alexander Hamilton, 99
Commerce, in the colonies, 9, 37–39; foreign, 61, 66, 162; tariff, 70, 184–187, 201, 212–213, 216–217, 226, 230, 278; interstate commerce, 74, 77, 196, 286–288; the Annapolis convention, 75–79; the Louisiana purchase, 159–160; Bonaparte's attacks on trade, 161; development of, 274–275, 278, 298
Commonwealths, 54–55, 58
Communism in Massachusetts, 67
Compromise of 1820 (Missouri), 180–182, 229–230, 234
Compromise of 1850, 226–229, 235–236, 238
Concord, battle of, 30, 39, 45
Condorcet, estimate of Franklin, 23; betterment of mankind, 306
Confederacy, 91, 182, 243–269
Confederate States of America, constitution adopted, 250–251
Confederation, articles of. *See* Articles of Confederation
Confederation, congress of the, 70, 75, 77, 79
Confederation of 1781, 214
Confiscated property, restitution of, 65
Congress, continental, 29, 31, 35, 39, 51–54, 59–84, 103, 105, 213–214; Protesting congress against internal taxation, 35; of delegates, 61; of the Confederation, 70, 75, 77, 79; on amendments to the constitution, 294
Connecticut, and the Lake Erie territory, 69–70; in the House of representatives, 81; first senators, Ellsworth and W. S. Johnson, 84; ratifies the constitution, 116; slavery, 145; Hartford convention, 162, 174, 201
Conservatives, 136, 308
Constitution of the United States, analysis of, xvii, 95, 97, 119–121, 130–132, 278–279, 284, 303–305; Franklin's signature, 25; formation of, 74–82, 107; ratification by the states, 80, 116–119, 122; Independence Hall, 104; Virginia plan, 108–110, 115; New Jersey plan, 110; discussion and revision, 111–116; and slavery, 176, 228; and the Supreme court, 193; and Andrew Jackson, 212; and nullification, 219; amendments, 279; Twelfth amendment, 82, 289; Thirteenth, 264; Fourteenth, 264–265, 289; Fifteenth, 265, 267, 289–290, 294; Sixteenth, 283, 289–291; Eleventh, 288; Seventeenth, 290; Nineteenth, 290; Eighteenth, 290–293; four proposed amendments never acted upon, 294
Constitution of the United States, (text), 325–337; first ten amendments (text), 338–339; subse-

quent amendments (text), 340–344; text of letter of transmission to Congress, 347–348
Constitutional convention of Philadelphia, 77–80, 84, 95, 97, 103–116, 154, 188, 279; state conventions, 116–119
Continental army, Alexander Hamilton, 99; John Marshall, 189
Cooper, James Fenimore, 273
Cooper institute, New York, Lincoln's address at, 245–246
Copley, John Singleton, 11
Cornwallis, Lord, 49–50
Corporations, industrial, 283
Corwin proposal, 255, 294
Cotton-gin, 174
Covenant of a League of nations, 297
Cushing, William, member of first Supreme court, 85
Customs service, 283

Dallas and sovereignty, 123, footnote
Dartmouth, Lord, 30
Dartmouth college, 200
Dartmouth college case, 202
Davis, Jefferson, Kansas-Nebraska bill, 239; president of the Southern Confederacy, 256–259
Deane, Silas, 49
Decay of nations, 306–307
Declaration of independence, 6, 25, 35–36, 39–42, 54, 59–60, 103, 144; text of, 321–324
Defender and preserver of the nation's unity and power: Abraham Lincoln, 223–269
Delaware, at the Annapolis conference on commerce, 76–79; first state to ratify the constitution, 116; slavery, 145
Delaware River, settlements of Swedes, 10
Delaware valley, 58
Delegates, congress of, 61
Democracy, 120, 138, 140, 156, 212, 284
Democrat party, 87, 140, 186, 240, 245; national convention at Charleston, S. C., 246–247
Democratic societies, 140–141; and the Whiskey rebellion, 149
Demosthenes, 203
Department of state, 83
Devonshire, original home of the Adams family, 11
Dickens, Charles, estimate of America, xiv
Dickinson, John, at the Philadelphia constitutional convention, 110
Disarmament, 298–299, 301
Discovery, development of, 274
District of Columbia, slavery, 236
Douglas, Stephen A., annexation of Texas, 233; Kansas-Nebraska bill for slavery, 237–239; Lincoln-Douglas debates, 226, 244, 247; chosen senator from Illinois, 245
Dred Scott case, 226, 241–242, 254
Dutch in the colonies, 9–10; treaty with the Netherlands, 85
Duties. *See* Tariff

East, collectivism, 307–308
East India company, 26–27
Economic problems, 278
Ecton, England, eldest son of the Franklin family as the village blacksmith at, 22
Education and progress, xviii; in the colonies, 7; Jefferson's belief in, 165; development of, 274
Edwards, Jonathan, and Alexander Hamilton, 99
Egypt and civilisation, 309

Eighteenth amendment, 290–293; text of, 344
Einstein, Albert, 280
Eleventh amendment, 288; text of, 340
Ellsworth, Oliver, first senator from Connecticut, 84; at the Philadelphia constitutional convention, 110
Emancipation. *See* Slavery
Emerson, Ralph Waldo, and Alexander Hamilton, 99; the Civil war, 273
England, imperialism, xiii–xv, 4–5, 8; scholarship, xvi; peace treaties, 6, 25, 64–65, 85; revolution of 1688, 7–8, 15–18; influence on the French Revolution, 41, 150–151; financial interests in America, 65; estimate of Washington, 89–90; and Alexander Hamilton, 99; and sovereignty, 124; and Montesquieu, 128; antipathy to, 139; and slavery, 143–144; attacks on trade, 161; War of 1812, 200–201, 211, 229; Civil war, 260; Saxon England, 284; and France, 295
English population in the colonies, 10; East India company, 26–27; troops, evacuation of Boston, New York, and Philadelphia, 49
Entangling alliances. *See* Foreign alliances
Ethnic unity of the colonies, 31–38; of a nation, 303
European war, 1914–18, motives of, 96; and nationalism, 286; the income tax, 291
Everett, Edward, the vice-presidency, 247–248
Excise tax, 148–149
Exeter, N. H., convention for ratification of the constitution, 117
Expenditure, since the adoption of the income tax, 291

Factory system, 274
Famine in Ireland, 275
Father of his country, George Washington, 43–91
The Federal and State Constitutions, Colonial Charters, and other Organic Laws, ed. by F. N. Thorpe, 144, foot-note
Federal constitution. *See* Constitution of the United States
Federal form of government, 126–127, 171–173, 186, 275, 278, 282, 284–285, 304–305; union of 1789, 214
The Federalist, 97, 117, 130
Federalists and anti-Federalists, 86–89, 103, 112, 117, 135, 139–140, 148–153, 158, 160–161, 185, 190–191, 200, 207, 240
Field, David Dudley, and Lincoln, 245
Fifteenth amendment, 265, 267, 289–290, 294; text of, 343
Fifty years of growth and change, 271–310
Financial policy, 71, 85, 278
First continental congress. *See* Congress, continental
First international American conference, 299
First ten amendments to the constitution (text), 338–339
Fiscal system. *See* Financial policy
Fishing legislation, 74–75
Florida, admission of, 183, 229; Jackson as governor, 211; secession, 250
Folkmote, 13
Foot, Samuel Augustus, resolution, 69, 205–207, 217

Ford, Paul Leicester, *The Many-Sided Franklin*, 23, foot-note; *Thomas Jefferson*, 157, foot-note
Foreign relations, first established in America by Franklin, 21; alliance with France, 49; policy of, 52–53, 66, 294–301; Jefferson first secretary of foreign affairs, 83; existing treaties, 84–85; and the Federalists, 149–151; and immigration, 277–278; "entangling alliances," 296; arbitration, 298–301; secret agreements, 302. *See also under* International, *also* Treaties
Foreign trade. *See* Commerce
Forerunners of the nation, 3–42
Fort Sumter, 155, 257–258, 263
Fourteenth amendment, 264–265, 289; text of, 341–342
Fox, 89, 203
France, treaties, 6, 25, 66, 85; influence on the Declaration of independence, 40–41; aid to the colonies, 49–50, 149, 295; estimate of George Washington, 90; European war, 96; the Louisiana purchase, 159–160, 176; Civil war, 260; ancient provinces, 284; and England, 295
Franklin, Benjamin, first man to establish international relations, 21, 24–25; birth, and family, 21–22; his *Autobiography*, 22; estimate of, 22–23, 25, 103; and John Adams, 24; signature of epoch-making documents, 25; plan of colonial union, 34, 62; Declaration of independence, 40–42; military struggle with the British, 49; differences among the colonies, 56; as foreign representative in treaties, 65–66, 85, 295; the constitution, 98; at the Philadelphia constitutional convention, 106, 115; influence of, 286; text of speech in the constitutional convention, September 17, 1787, 345–346
Free-soil party, 233, 239–240
Freeport, Ill., Lincoln-Douglas debates, 244
Fremont, John C., the presidency, 242
French and Indian invasion of the colony of New York, 34
French-Huguenots in the colonies, 9–10
French Revolution, origins, 6; English influences, 41; Jefferson a spectator of, 138–139; influence in the United States, 149–150, 295
Frontier in American history, 172

Gage, General, 30
Galesburg, Ill., Lincoln-Douglas debates, 244
Garfield, James A., 263
Garrison, William Lloyd, publisher of *The Liberator*, 236
Genêt, Edmond Charles, 141, 151
Geographic unity of the colonies, 31–38, 56–58; of a nation, 303
George III, 5, 28, 30
Georgia, not represented in the First continental congress, 29; ratifies the constitution, 116; slavery, 146–180; tariff, 186; and the Supreme court, 197; nullification, 221; secession, 250; suit of Alexander Chisholm, 288–289
Germany, immigrants to the colonies, 9–10, 275–276; revolution of 1848, 275
Gerry, Elbridge, at the Philadelphia constitutional convention, 110, 116; as foreign representative, 190

Gettysburg, Lincoln's speech, 62; battle of, 263; text of Lincoln's speech, November 19, 1863, 351
Ghent, treaty of peace at, 162, 211
Gibbon, Edward, 307
Giles, William B., hostility toward Washington, 88–89, 210
Government, local, 36–42, 53, 276–277
Governmental unity in the colonies, 32–38
Grant, Ulysses S., 263
Gray, Harrison, and the Boston tea party, 27
Great Britain. *See* England
Greece, lacking a federal form of government, 126; and civilisation, 308–309
Greeley, Horace, and Andrew Jackson, 197; and Lincoln, 246; letter from Lincoln on slavery, 261
Guadalupe Hidalgo, treaty of, 234
Gulf of Mexico, 66

Hague tribunal, 298; conferences, 1899 and 1907, 299
Hale, Sir Matthew, 192
Halifax, Lord, 103
Hamilton, Alexander, biography by F. S. Oliver, xvi; and national unity, 62, 183, 188; letter from Washington on government reform, 63; government reform, 68, 70–79, 86–87, 99, 141; first secretary of the treasury, 83; fiscal system, 85; the constitution, 97; relations with Washington, 97–99; birth, 98; and Madison, 102; at the Philadelphia constitutional convention, 110–112, 114–115; letter from Washington on the constitution, 112–113; at the New York convention, 118; the judicial department, 130; *The Federalist*, 97, 117, 130; Federalists, 135; opposed to Jefferson, 139; Louisiana purchase, 160; and Calhoun, 181; tariff, 186; ratification in Virginia, 190; constitutional power, 196; the Republican party, 240; influence of, 242, 254, 259, 268–269, 286
Hamilton, James, 99
Hamiltons of the Grange, 99
Harding, Warren G., foreign policy, 299–300
Harrison, Benjamin, 63
Harrison, Robert H., member of first Supreme court, 85
Harte, Bret, 273
Hartford convention of 1814, 162, 174, 201
Harvard university, Samuel Adams's M.A. thesis, 12
Hawthorne, Nathaniel, 273
Hayne, Robert H., 205–209, 212–213, 218
Hegel, theory of state, 306
Henry, Patrick, influence of, 6; independence of the colonies, 29–30; and Washington, 47; and the constitution, 118
History, study of, xvi–xvii; writing of, 96–97
Holland. *See* Netherlands
Holmes, Justice Oliver Wendell, 193
Holt, Sir John, 192
House of commons, 192
House of representatives, first session, 81; James Madison, 84; reconstitution, 113; slavery, 178, 237; Daniel Webster, 201
Hudson River, 49, 58
Huguenots in the colonies, 9–10

Ildefonso, treaty of, 1800, 159
Illinois, admission of, 179; Corwin proposal, 256

Immigration, increase of, 275–278
Imperial democracy, 284
Imperialism, British, xiii–xv, 4–5, 8
Imports. *See* Commerce
Incidence of taxation, 278
Income tax, 283, 289–291; Sixteenth amendment (text), 343
Independence Hall, Philadelphia, 103–104
India and civilisation, 309
Indiana, admission of, 179
Indians, attacks on the colonists, 33–34; Jackson's service against, 211
Indirect taxation, 148
Individualism, 308–309
Industrial combinations, 278; corporations, 283
Industry and manufactures, development of, 274–276, 278, 298
Inge, William Ralph, on human progress, xvii
Internal improvements, 183–187, 226, 274–278, 283; revenue, 283
International peace, 297; American conference, first international, 299; arbitration, 298–301; secret agreements, 302; *The International Mind*, 309. *See also* Foreign relations, Treaties, etc.
International trade. *See* Commerce
Interstate commerce, 74, 77, 196, 286–288
Invention, development of, 274
Iredell, James, 207–208
Irish immigrants, 275–276
Isolation of America a myth, 296
Italy, commercial treaties, 66

Jackson, Andrew, nationalism, 183; nullification, 188, 217–220, 251; and John Marshall, 196–197; birth, 209; in the House of representatives, 210; estimate of, 210–211, 252; military life, 211; the presidency, 211–213, 230; slavery, 220–221; death, 221; national bank, 232; the Republican party, 240; influence of, 254, 269
Jackson, Michigan, organisation of the Republican party, 239
James River, 50
Jay, John, treaty of peace with Great Britain, 65; government reform, 72; first chief justice, 85; *The Federalist*, 97, 117, 130; and the constitution, 117; as foreign representative, 295
Jefferson, Thomas, influence of, 7, 254, 268–269; nationalism, 21; Declaration of independence, 40–41; as foreign representative, 66, 85, 295; first secretary of foreign affairs, 83; treaty with Prussia, 85, 295; government reform, 86–87; and Madison, 102–103; anti-Federalist leader, 135, 158–159, 190; birth and family, 135–136; and John Marshall, 136, 189, 197; early understanding of democracy, 137; and Alexander Hamilton, 139; Monticello conference, 154–155; democracy, 156–157; estimate of, 157–158, 162–165; belief in education, 165; inscription on his burial monument, 165–166; and John Adams, 166; internal improvements, 183; commercial policy, 200; Webster's oration, 202; celebration of birthday, 217–218; Republican party, 240; the vice-presidency and the presidency, 289; "entangling alliances," 296
Johnson, Andrew, impeachment of, 128
Johnson, William Samuel, first senator from Connecticut, 84; at

the Philadelphia constitutional convention, 114–115
Jonesboro, Ill., Lincoln-Douglas debates, 244
Journal of the United States in Congress Assembled, 71, foot-note; 79, foot-note
Journals of the Continental Congress, 1774–1789, 39, foot-note; 53, foot-note
Judicial branch of the government, 85, 128–129; power, 288; independent, 304
Junkers, 136

Kansas-Nebraska bill of 1854, 180, 226, 237–239, 241
Kansas v. Colorado (1906), 287, foot-note
Kentucky, constitutional interpretation, 154; resolutions of 1798 and 1799, 161, 174, 186, 200, 207; admission of, 178
King, Rufus, first senator from New York, 84; at the Philadelphia constitutional convention, 110, 114–115
Kings college, Alexander Hamilton, 99
Kingship, divine right of, 7
Knox, Henry, first secretary of war, 83; letter from Washington, 88

Labour, factory system, 274; and capital, 275, 278
Lake Erie territory, 69
Landor, Walter Savage, *Imaginary Conversations* (William Penn), xvii–xviii
Lands, public, sale of, 205
Lansing, John, at the Philadelphia constitutional convention, 112
Law and the state, 306
Law cases, *United States v. Lanza*, 123, foot-note; Somerset case (slavery in England), 143–144; *Texas v. White*, 173, foot-note; Dartmouth college case, 202; Dred Scott case, 226, 242–243, 254; *Kansas v. Colorado* (1906), 287, foot-note; Alexander Chisholm against Georgia, 288–289
League of nations, 297; of peace, 298
Lee, Henry, estimate of George Washington, 91
Lee, Richard Henry, resolution of independence, 39, 52; first senator from Virginia, 84
Lee, Robert E., 91; and Thomas Jefferson, 136; and General Grant, 263
Letter of the president of the Federal convention, dated September 17, 1787, to the President of Congress, transmitting the constitution (text), 347–348
Lexington, battle of, 39, 45
Liberals, 137, 308
The Liberator, 236
Liberty, 4–5, 7, 13, 37, 100, 119–120, 131, 156, 158, 164–165, 175, 281, 285, 297, 304, 307–308
Limitation of armaments, 298–299, 301
Lincoln, Abraham, study of, by Lord Charnwood, xvi; Gettysburg oration, 62; tomb at Springfield, 104; nationalism, 188; slavery, 221, 255–256; the Wilmot proviso, 235; the Kansas-Nebraska bill, 238–239; Dred Scott case, 242; estimate of, 242–243, 263–264, 267; early career, 244; Lincoln-Douglas debates, 226, 244, 247; the presidency, 246–250; proclamation freeing all slaves, 262; assassination,

263; influence of, 269; proposed amendment to the constitution, 294
Lincoln-Douglas debates, 226, 244, 247
Liquors, taxation, 149; internal revenue, 283; traffic, 292–293
List of presidents of the United States, 320
List of states of the Union, 319
Literature, on British and American prepossessions, xv–xvi; in the colonies, 7; Civil war, 273
Livingston, Edward, opposed Washington, 210; nullification, 217–218
Local self-government, 36–42, 53, 276–277
Locke, John, 6, 41
Longfellow, 273
Louisiana, slavery, 146; Louisiana purchase, 159–160, 176, 180, 233; admission of, 179–180; secession, 250
Lowell, A. Lawrence, xvi
Lowell, James Russell, politics, 131; and slavery, 237; on Lincoln, 243; the Civil war, 273
Lower house of representatives, 84
Loyalists, 26
Lycurgus, 69

Macaulay, xv
McKinley, William, 297–300
Maclay, William, first senator from Pennsylvania, 84
Madison, James, financial policy, 70–71; at the Annapolis conference on commerce, 76–79; most important member of the First congress, 84; *The Federalist*, 97, 117, 130; the constitution, 98, 108, 117–118; and Hamilton, 102; the presidency, 103; at the constitutional convention, 106, 110, 114–115; Bill of rights, 122; sovereignty, 123, 125; Federalists, 142, 158; Monticello conference, 154–155; internal improvements, 183; Rockingham memorial, 200; influence of, 254, 268–269
Magna carta, 3, 124
Mahan, Alfred T., xvi
Maine, admission of, 180, 182
Maitland, Frederic W., civilisation, 225
Mansfield, Lord Chief Justice, the colonies and Parliament, 14–20; and slavery, 143–144; and John Marshall, 192
Manufactures, development of, 274–275, 298
Marshall, John, independence of the colonies, 6; the constitution, 118; and Jefferson, 136, 189, 197; nationalism, 183; public law, 187–188; early life, 189; later career, 190–191; as chief justice, 191–199; death, 197–198; commercial policy, 200; nullification, 209; as nation-builder, 219–220; the Republican party, 240; influence of, 242, 254, 259, 265, 269, 286; as foreign representative, 295
Martin, Luther, at the Philadelphia constitutional convention, 110
Martineau, Harriet, 279–280
Marx, Karl, 95–96
Maryland, defence against Indian attacks, 34; government reform, 74–75; Carroll, first senator from, 84; ratifies the constitution, 117; slavery, 145; Corwin proposal, 255
Mason, Senator, 116, 228
Mason and Dixon's line, 178

Massachusetts, town meetings, 13; defence against Indian attacks, 34; local government, 53; anarchy and communism, 67; the Northwest ordinance, 69–70; government reform, 78; in House of representatives, 81; ratifies the constitution, 116–119; slavery, 144–146; destructive spirit, 161; and Daniel Webster, 204; Webster's Seventh of March speech, 227
Massachusetts Bay, settlement of the Adams family, 11
Master-builders of the nation, Alexander Hamilton and James Madison, 93–132
Master of arts, Samuel Adams's thesis, 12
Merchants in time of war, 295
Mexico, Gulf of, 66
Mexico, war with, 225, 228–230, 234–235; slavery abolished, 229–230
Michigan, admission of, 229
Middle Ages and civilisation, 309
Middle States, 58
Militia. *See* Army
Minority rule, 61
Mississippi, slavery, 146; admission of, 179; secession, 250
Mississippi River, 66
Mississippi valley, commerce, 159
Missouri, territory of, 180; compromise of 1820, 180–182, 229–230, 234; admission of, 182
Mohawk River, 58
Monarchy and the Federalists, 140, 151
Monetary system, 278
Monroe, James, the House of representatives, 84; internal improvements, 183
Monroe doctrine, 294–295
Montesquieu, influence on our constitution, 127–128
Montgomery, Alabama, constitution of the Confederate States adopted, 250–251
Monticello, conference at, 154
Moore, John Bassett, *Digest of International Law*, 295, foot-note
Moral law, theory of state, 306
Morley, John, 203
Morris, Gouverneur, at the Philadelphia constitutional convention, 110, 114–115
Morris, Robert, first senator from Pennsylvania, 84
Mount Vernon, 48, 63, 104
Murray, Earl of, ancestor of Thomas Jefferson, 136

Nation defined, 31–32, 36
Nation-building, 161, 166, 175, 180, 189, 197, 206, 209, 219, 235, 253, 260, 265–269, 273–274, 280, 294, 297–298, 303–307
National bank, 184–185, 196, 201, 232, 283; republicans, 185; Democrat convention at Charleston, 246–247
Nationalism and anti-nationalism, 174–175, 180–181, 195, 200, 208, 212, 230, 286
Nations, decay of, 306–307
Natural resources, development of, 298
Navigation rights, 74–75
Navy, 72, 201
Negroes. *See* Slavery
Netherlands, Dutch in the colonies, 9–10; treaty with the United States, 85
Nevis, West Indies, birthplace of Alexander Hamilton, 98
New England, town meetings, 12–13; Confederation of 1643, 33; unity of stock and tradition, 56–

57; Louisiana purchase, 160; nullification and secession, 162; anti-nationalist doctrines, 174
New Hampshire, slavery, 4; in the House of representatives, 81; ratifies the constitution, 117–119; the Hartford convention, 201
New Jersey, at the Annapolis conference on commerce, 76–79; first senator, Paterson, 84; plan for the constitution, 110; ratifies the constitution, 116; slavery, 145
New Mexico, annexation of, 234; territorial government, 235
New Orleans, Jackson's defence of, 211
New York (City), consignment of tea in 1773, 27; Congress of the colonies, 34; Protesting congress, against taxation, 35; evacuation by British troops, 49; Washington in, 62; first session of House of representatives, 81; bar, Alexander Hamilton a member of, 99; immigrant population, 277
New York (Colony), French and Indian invasion, 34
New York (Province), Germans and French-Huguenots in, 10
New York (State), at the Annapolis conference on commerce, 76–79; first senators, King and Schuyler, 84; constitutional convention, 116–119; slavery, 145
New York *Daily Tribune*, 263, footnote
New York *Times*, 300, foot-note
Niles's Weekly Register, 192, footnote
Nineteenth amendment, 290; text of, 344
Nobel prize Committee, Roosevelt, 298
North, Lord, 6, 28, 30
North Carolina, constitution not yet ratified, 81; ratifies, 119; slavery, 146, 180; untouched by immigration, 277
Northamptonshire, original home of the Franklin family, 22; and of the Washington family, 47
Northern States, population of, 177–178; in the House of representatives and in the Senate, 178
Northwest ordinance, 68–70, 241; territory, 146, 179, 254
Nullification, 155, 162, 181, 197, 209–210, 213, 218–221, 225, 230, 266, 284

Ocean travel, development of, 276
Ohio, admission of, 179; Corwin proposal, 255
Ohio River, northwest territory. *See* Northwest territory
Ohio valley, commerce, 159–160
Oliver, Frederick Scott, *Alexander Hamilton*, xvi
Oratory, estimate of, 203
Ordinance, Northwest, 68–70, 241; of nullification, 218, 230
Orient, collectivism, 307–308
Osgood, Herbert L., 4–5
Otis, James, 6
Ottawa, Ill., Lincoln-Douglas debates, 244

Paine, Thomas, estimate of Washington, 88
Parker, Theodore, and Daniel Webster, 228
Parliament, and the colonies, 9, 14–20, 28, 35, 37; House of commons, 192
Particularism, 61, 63, 68, 197
Parton, James, *Life of Andrew Jackson*, 211, foot-note
Party spirit, 86, 89

Paterson, William, first senator from New Jersey, 84; at the Philadelphia constitutional convention, 110; and John Marshall, 191
Patricians, Roman, 137
Paul, Saint, 132
Peace, league of, 198
Peace treaties. *See* Treaties
Penn, William, on human progress, xvii–xviii
Pennsylvania, at the Annapolis conference on commerce, 76–79; in the House of representatives, 81; first senators, Morris and Maclay, 84; at the Philadelphia constitutional convention, 105; ratifies the constitution, 116; Association for the abolition of slavery, 142–143; and slavery, 145–148; and Andrew Jackson, 212
Pennsylvania Germans, 10
Persia, and civilisation, 309
Petition of Right, 3, 124
Philadelphia, early home of Franklin, 21–22; consignment of tea in 1773, 27; First continental congress, 28–29; evacuation by British troops, 49; Independence Hall, 103–104; American anti-slavery society, 236
Philadelphia constitutional convention. *See* Constitutional convention of Philadelphia
Phillips, Wendell, xiv–xv
Piedmont region, 57
Pilgrim Fathers, landing of, 202
Pinckney, Charles, 109–110, 190
Pitt, William, earl of Chatham, 5, 14, 27, 30
Plantation life, 57
Plato, theory of state, 306
Plebeians, Roman, 137
Plymouth, defence against Indian attacks, 34; Webster's oration, 202
Poe, Edgar Allan, 273
Poetry, American, 273
Police power, Prohibition, 292
Political system, 284
Polk, James K., the presidency, 233
Poor Richard's epigrams, 23
Popular mind, 285–286, 297, 302, 305
Popular sovereignty, 238
Population, free states compared with slave states, 177–178; immigration, 275–278
Portsmouth, N. H., home of Daniel Webster, 200
Portugal, commercial treaties, 66
Postal service, 283
Potomac River, 48
Poughkeepsie, New York constitutional convention, 119
President of the United States, first election, 80; impeachment, 128; election of, 289; list of, 320
Preston, Howard W., *Documents Illustrative of American History*, 154, foot-note; 186, foot-note; 216, foot-note
Princeton, College of New Jersey. *See* College of New Jersey.
Proclamation freeing all slaves, 262
Progress, xvii–xviii, 280–281, 307–308
Prohibition amendment, 290–293; text of, 344
Property, confiscated, restitution of, 65
Protective tariff. *See* Tariff, protective
Protesting congress against internal taxation, 35
Prussia, treaty, 1785, 66, 85, 295
Prussian theory of the all-mighty state, 305

Public lands, sale of, 205
Public opinion, 285–286, 297, 302, 305

Quakers and the slave traffic, 142–143
Quincy, Ill., Lincoln-Douglas debates, 244
Quincy, Mass., home of the Adams family, 11

Racial minorities, protection of, 297
Railways, 275, 278, 283
Randolph, Edmund, first attorney-general, 83; the Virginia plan for the constitution, 108, 110, 115–116; and Thomas Jefferson, 136
Ranke, Leopold von, xv
Rebellion, 259, 266
Reconstruction, 265–268
References, bibliography of useful, 313–318
Reid, Whitelaw, 151
Religious fervour, 274; protection of religious minorities, 297
Reports of Cases Adjudged in the Court of King's Bench from Easter . . . to Michaelmas . . . 1776, 144, foot-note
Representatives, House of. *See* House of representatives
Republican form of government, 109, 304–305
Republican party, formation of, 87, 140, 151–154, 161; Madison, 103, 142; in Congress, 183–184; of to-day, 239–240; and Lincoln, 245–246
Republicans, national, 185
Revolution, French. *See* French revolution
Revolution of 1688 (England), 7–8, 15–18; defence of, in Samuel Adams's M.A. thesis, 12; in the colonies and in England, 21
Rhode Island, constitution not yet ratified, 81; ratifies, 119; and slavery, 145; destructive spirit, 161
Richardson, James D., *Compilation of the Messages and Papers of the Confederacy*, 250, foot-note; 251, foot-note; 259, foot-note
Rives, George Lockhart, *The United States and Mexico*, 229, foot-note
Roads, 183–184
Rockingham memorial, 200–201
Roman Empire, and a federal form of government, 126–127; Patricians and Plebeians, 137; theory of state, 306
Rome, decay of, 307; and civilisation, 309
Roosevelt, Theodore, 298, 300
Russia, commercial treaties, 66
Rutledge, John, member of first Supreme court, 85

St. Louis, seat of territorial government, 1805, 180
Saxon England, 284
Schenectady massacre, 1690, 34
Scholarship. *See* Education
Schools. *See* Education
Schuyler, Philip, first senator from New York, 84
Science, development of, 273–274
Scotch-Irish in the colonies, 9–10; in the South, 57; ancestry of Thomas Jefferson, 136, 209–210
Scott, Winfield, the presidency, 230
Secession, 155, 162, 181, 220, 248–260, 266, 268, 284
Second continental congress. *See* Congress, continental
Secret international agreements, 302
Secretary, of foreign affairs, Jefferson, 83; of the treasury, Hamilton, 83, 99; of war, Knox, 83

Sedition laws, 152–153, 156
Self-government, 36–42, 53, 276–277
Senate, first, 84; reconstitution, 113; elections to, 290; Treaty of Versailles, 300; ratification of treaties, 301–303
Seven years' war, 34
Seventeenth amendment, 290; text of, 343
Seward, William H., Kansas-Nebraska bill, 239; and Lincoln, 245–246, 252
Sherman, Roger, at the Philadelphia constitutional convention, 110
Sherman, William T., 263
Ships, English and American, 37
Sidney, Sir Philip, 41
Sixteenth amendment, 283, 289–291; text of, 343
Slavery, 14, 32, 142–148, 162, 172–188, 212–215, 220–221, 226–267, 274–275
Smith, Melancthon, 190
Smuggling in the colonies, 37–38
Social life in the colonies, 7–8
Socrates, 203
Solon, 69
Somerset case, slavery, 143–144
South American settlements and Spain, 226
South Carolina, French-Huguenots in, 10; in House of representatives, 81; Pierce Butler, first senator, 84; at the Philadelphia constitutional convention, 105; ratifies the constitution, 117; slavery, 146; tariff, 186; nullification, 197, 213–218, 230; secession, 249–250; Fort Sumter, 257
Southern Confederacy, 91, 182, 243–269
Southern States, 57–58; anti-nationalism, 174; population of, 177–178; in Congress, 178
Sovereignty, divine right of kingship, 7; in each of the thirteen states, 60; and the constitution, 123–126; defined, 238, 265–266, 286–287, 298
Spain, peace treaty, 6; commercial treaties, 66; the Louisiana purchase, 159–160; South American settlements, 226; cession of Florida, 229
Spanish war, 1898, 286
Spokesman of the democratic spirit, Thomas Jefferson, 133–167
Springfield, Ill., tomb of Lincoln, 104
State, department of, 83; Prussian theory of, 305; and law, 306
States, first use of the name, 54; rights, 155, 183–185, 206–218, 240, 284; admission to the Union, 172–180; list of the states of the Union and dates of admission, 319
Statutes at Large of the United States, 301, foot-note
Story, Joseph, and sovereignty, 125; estimate of John Marshall, 198–199
Stowe, Harriet Beecher, *Uncle Tom's Cabin*, 174
Stuart theory of kingship, 7
Subsequent amendments (Articles XI to XIX) to the constitution (text), 340–344
Suffolk bar, 198
Suffrage, 265, 268, 290; text of the Fifteenth amendment, 343; of the Nineteenth, 344
Sulgrave, England, original home of the Washington family, 47
Sumner, Charles, Kansas-Nebraska bill, 239; and Lincoln, 245
Supreme court, first members, 83, 85; on sovereignty, 123–125; fed-

eral form of government, 126; legislation, 129, 187; John Marshall, 190; scope of, 192–195, 266, 279, 287–288; on slavery, 241; Southern members, 268
Susquehanna River, 49, 58
Swedes in the colonies, 9–10

Taft, William H., foreign policy, 299–300
Talleyrand, estimate of George Washington, 90; and John Marshall, 191
Taney, Chief Justice, 196, 241–242, 254
Tariff, protective, 70–71, 184–187, 201, 212–213, 216–217, 226, 230, 278
Taxation, in the colonies, 7, 17, 19, 37; internal, 35; in the new states, 64; in Massachusetts, 67; special, 71; on slaves, 147; indirect, 148; excise, 148–149; on liquors, 149; systems and incidence, 278; income, 283, 289–291; text of the Sixteenth amendment, 343
Taylor, Zachary, the presidency, 230
Tea, exportation to the colonies, 26–28, 38–39
Telegraph, development of, 275
Ten amendments to the constitution (text), 338–339
Tennessee, slavery, 145–146; admission of, 179; early home of Andrew Jackson, 210–211
Tenth amendment, 124
Teutonic immigration, 275–276
Texas, slavery, 146; annexation of, 225–234; secession, 250
Texas v. White case, 173, foot-note
Thackeray, 22
Thirteen colonies. *See* Colonies
Thirteenth amendment, 145, 264, 289; text of, 341
Times, New York, 300, foot-note
Tobacco, internal revenue, 285
Tocqueville, Alexis de, 282
Tories, 136
Town meetings in New England, 12–13
Trade. *See* Commerce
Transoceanic travel, 276
Transportation in the colonies, 7; development of, 183–187, 226, 274–278, 283
Treasury, first secretary of, Hamilton, 83
Treaties of peace with England, 6, 25, 64–65, 85; existing (1789), 84–85; of arbitration, 298; ratification by the Senate, 301–303
Treaty with France, 25; with Prussia, 66, 85, 295; of Ildefonso, 159; of Ghent, 162, 211; of Guadalupe Hidalgo, 234; of Versailles, 297; *Treaty-Making Power*, works on, 303, foot-note
Trevelyan, George Otto, xvi
Tribune, New York *Daily*, 263, foot-note
Trinity Church, New York, monument to Alexander Hamilton, 100
Trollope, Frances, xiv
Tucker, Henry St. George, *Limitations on the Treaty-Making Power*, 303, foot-note
Tudor theory of kingship, 7
Turner, Frederick Jackson, *The Frontier in American History*, 172
Twain, Mark, 273
Twelfth amendment, 82, 289; text of, 340–341
Tyler, John, annexation of Texas, 233

Uncle Tom's Cabin, 174
United States, patriotic prepossessions, xiii–xv; scholarship, xvi; formation of, 29; first use of the

term, 54; final ratification, 55; antipathy to England, 139; and civilisation, 309–310
United States. *See also under* American
United States constitution. *See* Constitution
United States Supreme court. *See* Supreme court
United States v. Lanza, case of, 123
Unity, ethnic, geographic, and governmental in the colonies, 31–38, 51, 58; national, 54, 72–75, 118, 303
Universal suffrage. *See* Suffrage
University of Virginia, 165
Useful references, bibliography of, 313–318
Utah, territorial government, 235

Valley Forge, 49, 189, 198
Van Buren, Martin, 217
Vermont, admission of, 178
Versailles, Treaty of, 297, 300
Vice-president, first election, 81–82; later election, 289
Vicksburg, battle of, 263
Virginia, in sympathy with Massachusetts, 28; and the Northwest territory, 69–70; government reform, 74–75; at the Annapolis conference on commerce, 76–79; in the House of representatives, 81; Richard Henry Lee, first senator, 84; resolutions of 1798, 102–103, 161, 174, 186, 200, 207; at the Philadelphia constitutional convention, 105; plan for the constitution, 108–110, 115; ratifies the constitution, 117–119, 154, 190; slavery, 145; constitutional interpretation, 154; University of, 165; army of, surrenders, 263
Voltaire, 6, 193

Wade, Benjamin F., Kansas-Nebraska bill, 239
Walpole, Lord, 5, 23
War, first secretary of, Knox, 83; of 1812, 200–201, 211, 229; civil war abhorred, 221; with Spain, 286
Washington, Augustine, 48
Washington, George, in command of the Continental army, 31; home life and personal characteristics, 46–48, 104–105; birth, 48; Mount Vernon, 48, 63, 104; military genius, 49–50; vision of national unity, 62; his farewell address, 62–63, 295, 349–350; government reform, 68; Annapolis convention, 75–79; Philadelphia constitutional convention, 77–80, 104–110; the presidency, 81–82, 86; a Federalist, 86–87, 135; hostility of William B. Giles, 88–89, 210; death, 89; the Washington monument, 90–91; guidance of a new nation, 95; and Hamilton, 97, 99; estimate of, 103; and Madison, 103; letter to Hamilton on the constitution, 112–113, 116; democratic societies, 140–141; Whiskey rebellion, 149; nationalism, 183; and Andrew Jackson, 210; influence of, 242, 254, 268–269, 286; text of Letter, September 17, 1787, to the President of Congress, Transmitting the Constitution, 347–348; text of Address to Congress on Resigning his Commission, 349–350
Washington (D. C.), assistance to new states, 172–173; control from, 181; Rockingham memorial, 200–201
Washington family, 47–48
Washingtoniana, 90, foot-note; 91, foot-note

Waters, legislation, 74–75
Waterways, 183–187, 226, 275
Watson foundation, xiii
Webster, Daniel, nationalism, 59, 183, 187–188; speech on Foot's resolution, 69; on Adams and Jefferson, 166–167; birth, 199; opposes the War of 1812, 201; removal to Massachusetts, 202; as an orator, 202–204, 218; in the House of representatives, 204; and Senator Hayne, 206–213; as nation-builder, 219–220; death, 221; 7th of March speech, 227–228; slavery, 237; Republican party, 240; influence of, 242, 254, 259, 265, 269, 286
Webster, Pelatiah, 107
Weems, Reverend Mason L., 48
Welders of the nation . . . John Marshall, Daniel Webster, and Andrew Jackson, 169–222
Welsh ancestry, Thomas Jefferson, 135
West, development of, 274
West Indies, trade with, 66
Westminster, government at. *See* Parliament
Westmoreland County, Va., settlement of the Washington family, 48
Wharton, Francis, *Digest of the International Law of the United States*, 295, foot-note
Whigs, 186, 207, 212, 240
Whiskey rebellion, 149
White House, 83
Whitman, Walt, 273
Whitney, Eli, cotton-gin, 174
Whittier, John G., and slavery, 237; Civil war, 273
William and Mary college, 189
Wilmot, David, 235
Wilson, James, member of first Supreme court, 85; at the Philadelphia constitutional convention, 110
Wilson, Woodrow, foreign policy, 299–300
Woman's suffrage, 290

Yancey, William L., secession, 248
Yates, Robert, at the Philadelphia constitutional convention, 112
Yorktown, Siege of, 49

Date Due

D
973.08
B986
c.1

1658